

COMMUNITY CHILD PROTECTION TEAMS

A MANUAL FOR TEAM MEMBERS

Revised by
Prevent Child Abuse Indiana
A Division of The Villages and a
Chapter of Prevent Child Abuse America

and The Indiana Department of Child Services

Supported by
The Indiana Department of Child Services



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INTRODUCTION

The Community Child Protection Team: A Manual for Team Members

Child abuse and neglect is a problem which has been recognized for many years, and both the emotional and fiscal consequences of maltreatment continue to have a tremendous impact on our society. Each year, tens of thousands of children are victims of physical and sexual abuse, neglect, and emotional maltreatment. Child abuse and neglect is a tragedy for the children who are victimized, the families who are torn apart by guilt, and the community which loses the benefits of healthy families and children. Further, unless there is education, intervention, and prevention, the cycle of child maltreatment may begin again when victims of childhood abuse and neglect become parents themselves.

How can the cycle be broken? Department of Child Services (DCS) was created to protect the life and health of children and to provide services and referrals for treatment to assist children and families to overcome the devastating effects of child abuse. A problem created by and affecting all of society cannot be relegated to a small group to solve. Community concern and action is required. Those who work in the field of child welfare need (1) professional consultation with specialists, (2) feedback on community standards, (3) information on treatment resources, (4) support and advocacy for their efforts, and (5) advocacy to effect change.

The Child Protection Team is an effective method to focus multi-disciplinary resources. This concept takes on many forms and functions throughout the country. There are teams which are organized as a group of treatment experts who collaborate about the diagnosis and treatment of children and their families. Hospital and agency-based teams are usually organized in this manner. A second type of Child Protection Team is the case consultation team. This model involves a multi-disciplinary group of experts who provide advice and opinions on child abuse and neglect cases to the legally mandated child protection services unit. A third model is a group of concerned citizens, agency representatives, and /or child advocates who meet together to address issues of child abuse and neglect in their community.

In 1979, a statewide system of case consultation teams, the Community Child Protection Teams, was created in Indiana. These Child Protection Teams, located in each county of the state, have given countless hours of consultation, support, and advocacy to the Department of Child Services' staff at the county level. Because of the importance of what they provide, Child Protection Teams need to receive the most current and relevant information regarding laws, policies, child maltreatment indicators and risk factors, as well as research pertaining to best practice methods. We recognize the importance of timely and evidenced based training so that those who are charged with helping to protect our children and support our workers, can do so in the most ethical and knowledgeable manner. In order to insure that current information is being provided in an effective and fiscally responsible manner, a method of training has been created that includes a comprehensive online handbook that can be updated as necessary, as

well as an initial in-person presentation for members of the Child Protection Teams. This manual is intended to provide new and experienced Community Child Protection Team members with: 1. An understanding of the role and process of the Child Protection Team; 2. Legislation and policies pertaining to child abuse and neglect cases; 3. Understanding of the entire process of a Child in Need of Services (CHINS) case and 4. Guidelines for effective and productive meetings. It is also our goal to record live trainings and download them onto the internet for new team members to access. Those trainings can also be changed and updated as necessary.

To better understand the process and evolution of Indiana's child welfare legislation and policies, it is important to reflect on some of the important events that impacted their development.

The first legislative code related to children was established in 1903 and was only slightly revised until 1979. In 1971, the reporting law (IC-12-3-4.1-2):

1. required any person who had "reason to believe" that a child has had a physical injury inflicted upon the child by a parent or other person responsible for the child's care other than by accidental means to report to the County Office of Family and Children or law enforcement agency (LEA).
2. required reporters who were licensed to administer medical assistance to include the nature and extent of injuries to children, including evidence of previous injuries and any other information which might help to establish the cause of injuries or the identity of the perpetrator.
3. charged those who failed to report with a misdemeanor with a penalty of a fine (not more than \$100) and/or imprisonment (not to exceed 30 days).

A twenty-four member commission was formed in 1977 to develop the Juvenile Code when the rules promulgated by the Indiana State Supreme Court were rescinded. The Juvenile Code was introduced in the 1978 Legislature. Effective January 1, 1979, the new law, P.L. 135, amended Title 31 (Family Law) by adding Article 5.5, a section on child abuse. An additional change effective October 1, 1979, as P.L. 276 reorganized P.L. 135 by repealing Article 5.5 and incorporating it into the new Juvenile Code as Chapter 11. A few changes were made in the 1992 legislative session, including the addition of IC 31-33-11-1 concerning a hospitalized child who is the subject of an abuse or neglect investigation. Also, requirements for guardian ad litem and court appointed special advocate participation were added to various sections of the law.

In 1992, the Indiana General Assembly passed P.L. 154-1992, creating the Commission on Abused and Neglected Children and Their Families. The twenty-four member commission was charged with making recommendations for a continuum of services to abused and neglected children and their families. In September 1992, the Commission submitted a comprehensive report and sixteen specific recommendations to the Governor and the Legislative Council. As a result of the Commission's work, the General Assembly unanimously passed P.L. 142-1993, which enacted a series of reforms in Indiana's child welfare system. These changes included authorization to establish a central registry and automated child protection system as well as

new definitions of substantiated and unsubstantiated, new time frames for initiating investigations, services referral agreements, reports to the court on informal adjustments, and new configurations and duties for community child protection teams. Other changes dealt with false reporting, the removal of the alleged perpetrator by law enforcement, placing children with appropriate family members, and the child abuse hotline 800-number.

The 1994 legislative session changed the law on child molesting (IC 35-42-4-3) and added to the list of persons entitled to receive 30- and 90-day follow-up reports and those authorized to have information gathered during the investigation of an abuse or neglect report. It should be noted that the 90 day follow-up report requirement was eliminated in 2011.

In 2004, the Indiana General Assembly again created a Commission on Abused and Neglected Children and their Families. This Commission made several recommendations regarding Indiana's Child Welfare system, but three significant pieces of legislation have resulted. One involved the creation of the Indiana Department of Child Services (2005); the other piece included the hiring of 800 new Case Managers over a three year period of time (2005-2008), and in 2009, the Office of the Ombudsman was created to help resolve complaints against the Department of Child Services.

Provisions of Current Family Law (Title 31), Juvenile Law (Article 33), Child Abuse (Chapter 1):

Purpose

1. To encourage effective reporting of suspected or known incidents of child abuse or neglect,
2. To provide each county with an effective child protection service,
3. To provide children with protection from further abuse or neglect,
4. To provide children and families with rehabilitative services, and
5. To establish a centralized statewide child abuse registry and an automated child protection system.

For the detailed Indiana Juvenile Code, please see Appendix D

Chapter 1

Child Welfare Manual

Synopsis

**Department of Child Services:
Intake Through
Permanency Planning**

Intake through filing Child in Need of Services (CHINS)-Section 1

Federal Statute emphasize:

1. prevention of unnecessary separation of children from parents;
2. improvement in quality of care and services to children and families;
3. permanency for children through 1) reunification with parents, 2) adoption or other permanent plan, 3) guardianship, 4) placement with a fit and willing relative, 5) Another Planned Permanent Living Arrangement (APPLA)

Receiving Reports of Child Abuse and Neglect

DCS operates a **toll-free hotline (1-800-800-5556)** for people to call and report suspected cases of child maltreatment. Although reports can be made in person or in writing, most child maltreatment reports are made by telephone. ***DCS receives and initiates assessments of child maltreatment 24 hours a day, seven days a week. The hotline employs trained Family Case Managers (FCM), also known as Intake Specialists (IS), who receive the reports. The unit is referred to as the Centralized Intake Unit (CIU)***

A written report (State Form 114 (R9/ 1-06) / CW 0310) must be completed within forty-eight (48) hours based on information obtained from the complainant. The report should include the following **(if known)**:

1. Names and addresses of the child and the child's parent(s), guardian or custodian, or other person responsible for the child's care;
 2. Child's age and gender;
 3. Nature and apparent extent of the child's injuries, abuse or neglect, including any evidence of present or prior injuries or alleged abuse or neglect to the child or the child's siblings;
 4. Name of the person allegedly responsible for causing the injury, abuse, or neglect;
 5. Source of the report;
 6. Name of the complainant and where the complainant can be reached;
 7. Any actions taken by the complainant, such as photographs, x-rays, removal or keeping of the child, or notifying the coroner; and
 8. Any other information the IS may require or the complainant may believe helpful.
- The IS will evaluate every Preliminary Report of Alleged Child Abuse or Neglect it receives by using the Structured Decision Making tool (SDM).

CIU makes *recommendations* to assess or screen out and makes determinations about:

1. Whether or not the allegations meet the statutory definition of Child Abuse and Neglect (CA/N) and should be assigned for assessment
2. Whether or not the report contains enough information to identify or locate the child and initiate an assessment; and
3. How quickly the assessment must be initiated (three time frames). Intake reports involving a suspected injury to the head or neck of any child under the age of 18 should be considered for a referral to the Pediatric Evaluation and Diagnostic Service (PEDS) Program. This program is available 24 hours a day, seven (7) days a week. Intake reports that allege that a child witnessed or was present in the home during an incident of domestic violence will be assigned for assessment if appropriate with the focus of the assessment being placed on the safety of the child. The Hotline will also recommend for assessment other domestic violence related calls that meet the statutory definition of CA/N. The Hotline Intake Specialist (IS) will relay the intake report to the Hotline Intake Supervisor for review following the conclusion of the initial call from

the reporter. Supervisors may review intakes before sending to local offices for fatalities, new workers, screen-outs and other targeted types, but other reports will be routed directly to the local office supervisor by the Intake Specialist with the recommendation to either assess the report or screen it out, but the local office supervisor or designee makes the actual decision about whether to assign the report to a local FCM or not. The local office can also override the initiation timeframe. When not following the CIU recommendation, the local office should document the reason.

In Summary:

At the conclusion of the reporter's initial call the IS will:

1. Complete the Preliminary Report of Alleged Child Abuse or Neglect
2. Screen thoroughly each individual named in the report prior to sending to the Hotline Intake Supervisor;
3. Determine if the allegations meet the statutory definition of CA/N.
4. If indicated, send the Preliminary Report of Alleged Child Abuse or Neglect to the Hotline Intake Supervisor to review for fatalities, new workers, screen-outs, and other targeted types. Other reports will be routed to the DCS local office. Each county is responsible to make sure reports are assigned in a timely manner.
5. Complete the following if the statutory definition of CA/N has been met:
 - a. Insure that the report is routed to the DCS local office and recommend for assessment or screen out and
 - b. Recommend how quickly the assessment must be initiated and determine if response time is to be advanced.

All intake reports involving a child who voluntarily enters an emergency shelter or a shelter care facility, without the presence or consent of a parent, guardian, or custodian will be routed to the DCS local office for assessment. DCS must conduct an assessment concerning the child no later than 48 hours after receiving notification from the emergency shelter or shelter care facility.

Local CPTs may review screen-outs.

Reports That Are Not Assigned for Assessment

Due to Indiana Law, DCS will not assign for assessment reports that **do not**:

1. Meet the statutory definition of Child Abuse and/or Neglect or
2. Contain sufficient information to either identify or locate the child and/or family and initiate an assessment.

Intake reports that are not assigned for assessment are referred to as "screen outs"

The Intake Specialist will:

1. Recommend an intake report for screen-out if:
 - a. The statutory definition of CA/N **has not** been met, and/or
 - b. There is not enough information in the CA/N intake report to either identify or locate the child and/or family to initiate an assessment.DCS will consider potential current and future risk to the child(ren) prior to recommending a CA/N intake report that involves domestic violence for screen-out.
2. Document the specific reason for the screen-out in the notes section of the intake report (i.e., "The allegations don't meet the statutory definition of CA/N because the person who allegedly beat the child was not the child's parent, guardian or custodian");
3. Recommend the report be referred to law enforcement if the allegations are of a criminal nature;
4. Forward the CA/N intake report and records search information to a Supervisor for review and approval of the recommendation to screen it out. This may be done electronically or in hard copy;

Time Limit

When reports of child neglect are received, the assessment must be initiated within a "reasonably prompt time," but not later than five (5) days; the primary consideration should be the well-being of the child who is the subject of the report. If the report alleges a child may be a victim of child abuse, the assessment shall be initiated immediately, but not later than twenty-four (24) hours after receipt of the report. If there is reason to believe the child is in imminent danger of serious bodily harm, DCS must initiate within one (1) hour an immediate, onsite assessment. If the immediate safety or well-being of a child appears to be in danger or the facts otherwise warrant, an assessment must be initiated regardless of the time of day.

DCS must contact the law enforcement agency in the appropriate jurisdiction; and the law enforcement agency, along with DCS, must conduct an immediate, onsite assessment if there is reason to believe an offense has been committed. If a report alleges abuse or neglect and involves a child care ministry that is exempt from licensure under IC 12-17.2-6, the department and the appropriate law enforcement agency to jointly conduct an investigation.

Factors to be considered during assessment

The department's assessment, to the extent that is reasonably possible, may include the following:

- (1) The nature, extent, and cause of the known or suspected child abuse or neglect.
- (2) The identity of the person allegedly responsible for the child abuse or neglect.
- (3) The names and conditions of other children in the home.
- (4) An evaluation of the parent, guardian, custodian or person responsible for the care of the child.
- (5) The home environment and the relationship of the child to the parent, guardian, or custodian or other persons responsible for the child's care.
- (6) All other data considered pertinent.
- (a) The assessment may include the following:
 - (1) A visit to the child's home.
 - (2) An interview with the subject child.
 - (3) A physical, psychological, or psychiatric examination of any child in the home.
- (b) If:
 - (1) admission to the home, the school, or any other place that the child may be; DCS will make a reasonable number of attempts and employ creative problem-solving techniques in an effort to complete each assessment component and to do so within the required time frame;
 - (2) When extenuating circumstances prevent completion of a component within the deadline or altogether, document the circumstances in the assessment file;
 - (3) Seek supervisory input whenever a deadline cannot be met and/or a component cannot be completed; and
 - (4) Document the reasoning if, with supervisory approval, the decision is made to reach a finding based on the available evidence and close the assessment without completion of one (1) or more required components.

The Supervisor will:

1. Review the documentation and discuss the circumstances with the FCM to make a final determination about whether good faith efforts have been made;
2. Assist the FCM with creative problem-solving techniques if it is determined that good faith efforts have not been made and additional efforts should be made to complete a particular assessment component; and

3. Advise the FCM to recommend a finding based on the available evidence if the Supervisor determines that good faith efforts have been made and the incomplete assessment will be closed

Assessment Activities may include the following based on circumstances

Assessment activities include:

1. Making contact with or interviewing the child, parent, guardian, or custodian
2. Obtaining photographs and/or X-rays;
3. Making a home visit;
4. Obtaining a physical, psychological and/or psychiatric examination;
5. Making collateral contacts with such entities as relatives, neighbors, school personnel, law enforcement or other community agencies and
6. Drug screening

Assessment of Potential Risk to Child

Factors to be considered are:

1. Age\development of child;
2. Location of the injury and severity or frequency of the injury or neglect;
3. Prior history of abuse or neglect;
4. Family members' potential for change, and
5. Degree of access of the alleged perpetrator to the child and ability of parent, guardian, custodian, or person responsible for the child to protect the child.

Determination of Case Status

Substantiated DCS finds enough facts to prove that there is a preponderance of the evidence (over 51%) that child abuse and neglect has occurred.

Unsubstantiated –DCS is unable to find facts to provide credible evidence that child abuse or neglect has occurred.

Reports of Assessment

The Indiana Department of Child Services (DCS) shall send the Report of Assessment or Investigation no later than 30 days after receiving the Preliminary Report of Alleged Child Abuse or Neglect from a:

1. Hospital;
2. Community mental health center;
3. Managed care provider (as defined in IC 12-7-2-127(b));
4. Referring physician;
5. Dentist;
6. Licensed psychologist;
7. School;
8. A licensed Child caring institution;
9. A licensed group home;
10. Secure private facility; or
11. Child placing agency as defined in IC 31-9-2-17.5.

DCS shall send the Report of Assessment or Investigation to:

1. The administrator of the hospital;
2. The community mental health center;

3. The managed care provider;
4. The referring physician;
5. The dentist;
6. The principal of the school;
7. A licensed psychologist;
8. A licensed child caring institution;
9. A licensed group home;
10. A secure private facility; or
11. A child placing agency

Note: The administrator, director, referring physician, dentist, licensed psychologist, or principal may appoint a designee to receive the report.

The Report of Assessment or Investigation must contain these items that are known at the time the report is sent:

1. The name of the alleged victim of CA/N;
2. The name of the alleged perpetrator and the alleged perpetrator's relationship to the alleged victim;
3. Whether the assessment is closed;
4. Whether the department has made an assessment of the case and has not taken any further action;
5. The Family Case Manager's name and telephone number;
6. The date the report is prepared;
7. Other information that DCS may prescribe.

The Report of Assessment or Investigation is confidential and may be made available only to the agencies named above and the personal and agencies listed in IC 31-33-18-2.

Confidentiality

Please refer to the Indiana Juvenile Code Synopsis, IC 31-33-18-2, of this manual for those authorized to have access to reports of alleged child abuse and neglect. A Confidentiality Agreement will be signed annually by CPT members.

Further Services and Court Involvement : Informal Adjustment

The Indiana Department of Child Services (DCS) will initiate a Program of Informal Adjustment (IA) when:

1. A Child Abuse and/or Neglect (CA/N) allegation is substantiated;
2. Voluntary participation in family and/or rehabilitative services is the most appropriate course of action to protect the safety and well-being of the child;
3. The parent, guardian, or custodian consents to an IA; and
4. Juvenile court approval is requested and obtained.

The duration of the IA will be no longer than six (6) months. An IA extension may be requested for no longer than three (3) months. If the court does not approve or deny the IA or set a hearing within 10 business days of filing, the IA is deemed approved. If the hearing is set within 10 business days but not held and action is not taken to approve or deny the IA within 30 business days of submission to the court, the IA is deemed approved. See Related Information for further details. DCS will utilize the Progress Report on Program of Informal Adjustment (IA) to:

1. Notify the court that DCS will be filing a subsequent report (DCS will file a CHINS petition or is still determining the best courses of action);
2. Extend the IA past the initial 6 months (an IA can have one 3 month extension);

3. Dismiss the IA (DCS has already filed a CHINS petition or the family has not complied with the terms of the IA and DCS is not requesting an extension); or
4. Discharge the IA (if the family has complied with the terms of the IA).

The Progress Report on Program of Informal Adjustment must be submitted to the court no later than five (5) months after the implementation of the IA. DCS will file a petition for compliance if a parent, guardian, or custodian fails to comply with the services outlined in the IA agreement. DCS will consider filing a Child in Need of Services (CHINS) petition if the parent, guardian, or custodian does not comply with the terms of the IA or the best interests of the child requires additional services for which court intervention is needed.

Outline of CHINS Procedure

The Indiana Department of Child Services (DCS) will initiate a Child in Need of Services (CHINS) petition when there is sufficient reason(s) to believe that a child is a victim of abuse and neglect or the child has a CHINS condition such as experiencing physical or emotional maltreatment, neglect, or other conditions, such as abandonment.

The Family Case Manager (FCM) will:

1. Ensure that Indiana Assessment Matrix supports the filing of a CHINS.
2. Conduct a diligent search if either of a child's parents are unable to be located or provide an update as to the progress toward completion of the Affidavit of Diligent Inquiry (ADI) to the court at the time of the Detention/Initial Hearing.
3. Ensure that the CHINS petition includes a request for the court to make findings of Best Interests/Contrary to the Welfare, Reasonable Efforts to Prevent Removal, and Placement and Care responsibility to DCS if the recommendation is that the child continue to remain out-of-home, or be removed from the home and placed in substitute care;
4. Ensure the following forms are completed:
 - a. Taking Custody of a Child without Verbal Consent or Written Court Order: Description of Circumstances if the child was removed without a court order
 - b. Preliminary Report of Alleged Child Abuse or Neglect
 - c. Assessment of Alleged Child Abuse or Neglect (if the assessment is completed)
 - d. Intake Officer's Report of Preliminary Inquiry and Assessment
 - e. Any other forms or notices that are required.

Note: In cases where domestic violence has been identified, the FCM will ensure that proper redaction of a-e above occurs. All redactions should be completed in conjunction with the DCS Local office Attorney.

5. Work with the DCS Local office Attorney to complete and file all documents necessary for court proceedings.
6. Request separate hearings be held for a parent who is an alleged victim of domestic violence and alleged domestic violence offender, when appropriate; and
7. Staff with Supervisor to determine next steps if request for separate hearings is denied.

The Supervisor will:

1. Assist the FCM, whenever necessary, to complete the required CHINS documents;
2. Ensure the CHINS petition is filed in a timely manner; and
3. Assist the FCM if the request to hold separate hearings is denied for the non-offending parent and alleged domestic violence offender, when appropriate

Taking Custody and Detention

A child may be taken into custody by a law enforcement officer, probation officer, or caseworker acting with probable cause to believe the child is a child in need of services if:

- (1) it appears that the child's physical or mental condition will be seriously impaired or seriously endangered if the child is not immediately taken into custody;
- (2) there is not a reasonable opportunity to obtain an order of the court; and
- (3) consideration for the safety of the child precludes the immediate use of family services to prevent removal of the child.

(b) A probation officer or caseworker may take a child into custody only if the circumstances make it impracticable to obtain assistance from a law enforcement officer. If a person takes a child into custody under this section, the person shall make written documentation not more than twenty-four (24) hours after the child is taken into custody. The safety of the child must preclude services to prevent removal; a court order must be sought, if possible; and the parents must be notified that a child has been detained, with or without a court order. Parents must also be notified of their legal rights during this process. When a child is removed from the home of the parent, guardian, or custodian, a combined Detention/Initial Hearing will be held no later than 48 hours after the removal, excluding Saturdays, Sundays, and certain legal holidays, to determine if (DCS) has continued authority to detain the child. The combined Detention/Initial Hearing will take place after a removal when there was no prior court approval. The Detention/Initial hearing will always be combined unless DCS requests a Detention Hearing to obtain a court order prior to taking custody of a child.

If the combined Detention/Initial Hearing is not held within 48 hours after the removal, DCS will return the child to his or her parent, guardian, or custodian. In addition, all parents, guardians, and custodians must be notified during a DCS assessment of the availability of the assessment report. The purpose of the hearing is to show that removal was necessary as is continued placement, if applicable. The order or transcript from the court must show reasonable efforts have been made by DCS to prevent removal or to reunite the family; that it is in the child's best interest to be removed from the home and that remaining in the home environment would be contrary to the health and welfare of the child; that reasonable efforts were made or were not required to prevent or eliminate the removal, and that DCS has responsibility for the placement and care of the child.

Filing a CHINS Petition

DCS will initiate a Child in Need of Services (CHINS) petition when there is sufficient reason(s) to believe that a child is a victim of abuse and neglect or the child has a CHINS condition such as experiencing physical or emotional maltreatment, neglect, or other conditions, such as abandonment. The situation must meet one or more of the CHINS definitions as set forth in the Indiana Code under IC 31-34-1-1 through IC 31-34-1-11, and DCS must show that coercive intervention of the court is necessary to protect the child, and that services are necessary.

When the court has not received and accepted a parent/guardian/custodian's admission that there is a factual basis to establish that the child(ren) has a CHINS condition, and the parent/guardian/custodian desires to contest the facts alleged in the DCS CHINS petition, the parent/guardian/custodian(s) is entitled to a CHINS fact-finding hearing on whether the child has a CHINS condition.

CHINS Hearings

Initial hearing. Summonses are sent to the parent(s) or guardian and subpoenas to witnesses. The purpose of the hearing is to inform parents of the allegations, of the effects if the child is adjudicated a CHINS, and to determine if the parent(s) or guardian admit or deny the allegations. A guardian ad litem (GAL) or court appointed special advocate (CASA) may be appointed by the court.

Fact-finding Hearing.

The Fact-Finding hearing is the setting in which DCS must prove that the child has a condition as set forth in the Indiana Code under IC 31-34-1-1 through IC 31-34-1-11; DCS must show that the situation meets one or more of the Child In Need of Services (CHINS) definitions as set forth in the Indiana Code under IC 31-34-1-1 through IC 31-34-1-11, and DCS must show that coercive intervention of the court is necessary to protect the child. The Fact-Finding Hearing will be held within 60 calendar days from the date the CHINS petition was filed. If the allegations of a petition have been admitted, the juvenile court may hold a dispositional hearing immediately after the initial hearing.

Dispositional Hearing. The juvenile court shall complete a dispositional hearing not more than thirty (30) days after the date the court finds that a child is a child in need of services to consider the following:

- (1) Alternatives for the care, treatment, rehabilitation, or placement of the child.
- (2) The necessity, nature, and extent of the participation by a parent, a guardian, or a custodian in the program of care, treatment, or rehabilitation for the child.
- (3) The financial responsibility of the parent or guardian of the estate for services provided for the parent or guardian or the child.

If the dispositional hearing is not completed in the time set forth in subsection (a), upon a filing of a motion with the court, the court shall dismiss the case without prejudice. The selection of options available to the judge are:

1. Alternatives for the care, treatment, rehabilitation, or placement of the child;
2. The necessity, nature, and extent of the participation by a parent, guardian, or custodian in the program of care, treatment, or rehabilitation for the child;
3. The financial responsibility of the parent or guardian of the estate for services provided for the parent or guardian or the child; and
4. Legal settlement of the child for school attendance, if the child has been removed from the home.
5. Reasonable efforts have been made, if the child is a CHINS, to:
 - a. Prevent or eliminate the need for removal of the child, or reasonable efforts have been made to prevent or eliminate the need for removal of the child was not required because of the emergency nature of the situation.
6. Family services that were offered and provided to: a. A CHINS, or b. The child's parent, guardian, or custodian.
7. The court's reasons for the plan of care, treatment, rehabilitation, or placement of the child as ordered or approved by the court; and DCS is given responsibility for placement and care of the child.

The Indiana Department of Child Services (DCS) will prepare a Predispositional Report (PDR) at least 10 calendar days prior to the Dispositional Hearing for any child that a court adjudicates a Child in Need of Services (CHINS).

DCS will ensure the PDR contains the following:

1. Statement of the needs of the child for care, treatment, rehabilitation, or placement;
2. Recommendation for the care, treatment, rehabilitation, or placement of the child;
3. Financial Report on the parent(s) and child.
4. Nature and extent of appropriate participation by parent, guardian, or custodian;
5. Legal Settlement Information (i.e., city and state of current residence of custodial parent or other caretaker when applicable);
6. Information about Child and Family Team (CFT) Meetings or Case Plan Conferences held and their outcomes, including any information about a Concurrent Plan for the child.

The following individuals may prepare an alternative report for consideration by the court:

1. The child, based upon age and developmental level,
2. The child's: a. Parent, guardian, or custodian and/or
3. Court Appointed Special Advocate (CASA)/ Guardian ad Litem (GAL).

DCS will confer with appropriate individuals who have expertise in professional areas related to the child's needs. This may include representatives from the following:

1. DCS;
2. The child's school;
3. Probation Department;
4. A community mental health center (located in the child's county of residence);
5. A community mental retardation and other developmental disabilities center (located in the child's county of residence);
6. CFT;
7. Other persons as the court may direct.

The report should also include specific detail regarding the persons living in the household of the removed child. Details that should be included:

1. The relationship of these persons to the removed child;
2. Each parents place of residence;
3. Sources and amounts of income for each household member in the month the child was removed; and
4. Any diagnosed physical or mental illness of one or both of the parents

In-Home CHINS

It is determined that the child may safely remain at home, however the parents must still adhere to requirements outlined by DCS. It is used if the parents require coercive intervention to participate in services.

Child remains in the care of the parent during the CHINS proceeding.

The Family Case Manager will:

1. Refer the family for home-based services.
2. Develop the case plan; and
3. Convene the Child and Family Team Meeting.

Out of Home CHINS

It is determined that the child may not be safe if he/she remains in the home. Coercive intervention of the court is needed to ensure child receives care and services needed.

Minus exigent circumstances, DCS cannot remove a child from home without approval from the court.

A Detention Hearing is required within 48 hours

The code presumes that the child will be released to the parent unless the court makes specific written findings.

The child is placed out-of-home.

Case Reviews and Hearings

The Indiana Department of Child Services (DCS) will attend and participate in a Periodic Case Review Hearing:

1. At least once every three (3) months, after the date of the child's removal from the child's parent, guardian, or custodian; or
2. At least three (3) months after the date of the Dispositional Decree, whichever comes first.

DCS will provide notice at least 10 calendar days before the Periodic Case Review Hearing to the following:

1. The child;
2. The child's parent, guardian, or custodian;
3. An attorney who has entered an appearance on behalf of the child's parent, guardian, or custodian;
4. Court Appointed Special Advocate (CASA) or Guardian ad Litem (GAL);
5. Resource parent or long-term resource parent (a parent who has provided care and supervision for a child for at least 12 most recent months or 15 months of the most recent 22 months).
6. Witnesses for hearings

Permanency Plan-Section 2

DCS will identify and recommend to the court a Permanency Plan and a Concurrent or Alternative Plan for every child adjudicated as a Child in Need of Services. The Permanency Plan will be identified in the Case Plan no later than 45 days after the date the child is removed from the home or date of disposition, whichever comes first. DCS will make reasonable efforts to reunify the child with his or her family unless the court finds that reasonable efforts to reunify are not required. If the court determines no reasonable efforts are required, a Permanency Hearing must be held within 30 days of the finding. When reunification is not appropriate or possible, DCS will make and recommend to the court an alternate Permanency Plan in a timely manner. DCS will seek court approval of all Permanency Plans and subsequent changes. DCS will inform the child and document the child's views in the Permanency portion of the Progress Report. If the child is at least 16 years of age and the proposed Permanency Plan provides for the transition of the child from out-of-home placement to independent living, the court will:

- a. Require DCS to send notice of the Permanency Hearing to the child, and
- b. Provide the child an opportunity to be heard and to make recommendations to the court.

Permanency Hearing

The Indiana Department of Child Services (DCS) will attend and participate in a Permanency Hearing for a child:

1. Within 30 days after the court finds that reasonable efforts to reunify or preserve a child's family are not required;
2. Every nine (9) months after the date of the original Dispositional Decree or the date the CHINS was removed from the child's parent/guardian/custodian, whichever comes first; and

3. More often if ordered by the court.

DCS may request that the court hold a Permanency Hearing at any time.

DCS will present the child's views in the Permanency Hearing Report, prepared for the Permanency Hearing.

The Family Case Manager (FCM) will:

1. Provide notice to all required parties.
2. Attend and participate in the Permanency Hearing for a child:
 - a. Within 30 days after the court finds that reasonable efforts to reunify or preserve a child's family are not required,
 - b. Every nine (9) months after the date of the original Dispositional Decree or the date the Child in Need of Services (CHINS) was removed from the child's parent, guardian, or custodian, whichever comes first, and
 - c. More often if ordered by the court.

The FCM and Supervisor will ensure the child attends the hearing, unless the court has ordered otherwise. The Supervisor will review and approve the Case Plan and the Permanency Hearing Report prepared for the Permanency Hearing.

Factors that should be considered during the CFT meetings for the Permanency Hearing:

1. Identify objectives of the Dispositional Decree that have not been met,
2. Evaluate whether continuation of the decree with or without modification has a reasonable chance of success;
3. Determine whether it is in the child's best interest for the juvenile court to retain jurisdiction;
4. Determine whether responsibility for Placement and Care of the child should remain with DCS;
5. Identify procedural safeguards used by DCS to protect parental rights;
6. Determine whether an existing Permanency Plan will be modified, taking into account the recommendations of parties or other persons having a significant relationship with the child;
7. Determine whether DCS has made reasonable efforts to finalize the Permanency Plan that is in effect;
8. Determine the child's future status (e.g., whether the child is to return to the/their parent/guardian/custodian, continue in substitute care, be placed for adoption, be placed under another planned permanent living arrangement, with an appointed legal guardian, or placed with a fit and willing relative).

It should be noted that the same factors considered during the Periodic Case Reviews are also considered during the Permanency Hearing.

It is also important to speak with the child regarding his/her views on leaving his/her current home and how they feel about reunification, adoption, guardianship, another planned permanent living arrangement, or placement with a fit and willing relative. Present the child's views in the Permanency Plan to the court. Although the child's views may be contrary to the court's recommendation for permanency, it is necessary to present those views. The child's views may also be expressed by an attorney for the child, the FCM or the GAL/CASA at the Permanency Hearing. There must be an indication that the child's view on the permanent placement has been sought and reported to the Court at each Permanency Hearing.

*It should be noted that in certain situations DCS policy is stricter than what is written in the Indiana Code in terms of time frame for proceedings.

Permanency Round Tables:

DCS is committed to obtaining permanency for all Children In Need Of Services (CHINS) who are in care. DCS will ensure that providing appropriate care and finding permanent homes for these children remains a focus in case planning. In order to help facilitate permanency planning, DCS will utilize a Permanency Roundtable to review permanency options for children with uncertain permanency, including youth who have been in residential placement for longer than six (6) months. During the Roundtable, the team will develop an action plan to assist the child in attaining permanency.

*All participants in Roundtables must have attended a Permanency Roundtable Orientation. Roundtables will be scheduled quarterly for each region. The dates for Roundtables within each region are determined by Regional Managers (RMs) in conjunction with the Central Office Permanency Support Team.

Permanency Roundtable Core Teams must include:

1. Family Case Manager (FCM);
2. FCM Supervisor;
3. Facilitator;
4. Master Practitioner;
5. Regional Permanency Roundtable Liaison;
6. Permanency Experts;
7. Service Experts;
8. Scribe; and
9. Central Office Liaison.

Permanency Roundtable Core Teams may also include:

1. DCS Clinical Consultant;
2. DCS Local Office Attorney;
3. DCS Practice Development Supervising Attorney;
4. DCS Practice Consultant;
5. DCS Peer Coach;
6. DCS Peer Coach Consultant; and
7. Other Staff as needed and identified by the RM or Regional Permanency Roundtable Liaison.

*Once again, the law is less strict than the current policy .

Petition for Parental Participation

DCS may file a petition for parental participation in the case plan if the authority of the court is needed for the parents to agree to comply. The petition must allege the following:

- (1) That the respondent is the child's parent, guardian, or custodian.
- (2) That the child has been adjudicated a child in need of services.
- (3) That the parent, guardian, or custodian should:
 - (A) obtain assistance in fulfilling obligations as a parent, guardian, or custodian;
 - (B) provide specified care, treatment, or supervision for the child;
 - (C) work with a person providing care, treatment, or rehabilitation for the child; or
 - (D) refrain from direct or indirect contact with the child.

Protective Orders

The FCM may seek an injunction to:

1. control the conduct of any person in relation to the child;
2. provide a child with an examination or treatment;
3. prevent a child from leaving the county jurisdiction.
4. DCS may also file a Protective Order to require a parent to leave the home

Regional Service Councils

Because of the importance for service capacity delivery to children and families in neighborhoods, communities, counties and the state, the coordination of service availability and delivery is critical to protecting children and families. This process of service availability and delivery is best done at the local level. The process is made even more complicated since each individual case may present difficult and expensive needs or a changing variety of issues. These issues are even true with medium to large population counties. In order to address these issues, including the need for coordination within wider geographic and geopolitical boundaries, the Regional Services Councils were created. The make-up of the Regional Services Council will depend on the number of counties in the Region. If the Region consists of at least 3 counties, the Regional Services Councils are made up of the following voting members.

- 1) The Regional Manager, who shall serve as chair of the committee.
- 2) Three Judges having juvenile jurisdiction in the Region, or their designees
- 3) Three Local Directors in the Region
- 4) Two Family Case Manager Supervisors from the Region
- 5) Two Family Case Managers from the Region
- 6) Two licensed Foster Parents from the Region
- 7) One Guardian ad Litem/CASA from the Region
- 8) One Prosecuting Attorney in the Region or designee from the Region
- 9) One resident of the Region who is at least 16 years old and less than 25 years of age and who has received or is receiving services through funds provided, directly or indirectly, through the Department. This person will serve in a non-voting capacity.
- 10) The parent of a child who has received or is receiving services through funds provided, directly or indirectly, through the Department. This parent must be a resident of the Region and will serve in a non-voting capacity. [This is an optional member, not a required one.]

If the service region consists of one or two counties, the Regional Services Council must include at least the following members from the region:

- 1) Three employees from the Region, including the Regional Manager
- 2) One juvenile court judge having jurisdiction in the Region or judicial hearing officer from the Region
- 3) Two members who are designees of a juvenile court judge having juvenile jurisdiction in the Region
- 4) Two Family Case Manager Supervisors from the Region
- 5) Two Family Case Managers from the Region
- 6) One licensed Foster Parent from the Region
- 7) One Guardian ad Litem/CASA from the Region
- 8) One member who is a prosecuting attorney in the Region or the prosecuting attorney's designee from the Region
- 9) One resident of the Region who is at least 16 years old and less than 25 years of age and who has received or is receiving services through funds provided, directly or indirectly, through the Department. This person will serve in a non-voting capacity.
- 10) The parent of a child who has received or is receiving services through funds

provided, directly or indirectly, through the Department . Parent must be a resident of the Region and will serve in a non-voting capacity. [This is an optional member, not a required one.]

The Regional Services Council shall meet at least quarterly to implement a plan that identifies the following:

- (A) The manner in which prevention and early intervention services will be provided or improved;
- (B) How local collaboration will improve children's services; and
- (C) How different funds can be used to serve children and families more effectively.

Adoption Permanency Planning

The process of adoption planning for all children in out-of-home care with a permanency plan of adoption may be initiated:

1. When a court finds an exception to the requirement to make reasonable efforts to reunify the family exists;
2. When a child has been under a dispositional decree for at least six (6) months with no significant progress made towards a plan of reunification.
3. At the filing of a Termination of Parental Rights (TPR).
4. Voluntary Termination of Parental Rights

DCS will convene either a Child and Family Team (CFT) Meeting or Case Plan Conference to discuss adoption planning for the child and identify any needed services provided by a professional that specializes in adoption. In accordance with the federal law that addresses race and ethnicity in placements, Multiethnic Placement Act of 1994 as amended by the Interethnic Adoption Provisions of 1996 (MEPA-IEP), DCS will not delay or deny the adoptive placement of a child based on the race, color, or national origin of the adoptive resource family or the child involved. If a Native American child is involved, the Indian Child Welfare Act (ICWA) applies.

DCS will ensure that all children in out-of-home care with a permanency plan of adoption receive age appropriate pre-adoptive services (e.g., individual counseling, home-based services, etc., that is offered by a service provider that specializes in adoption services) to prepare the child for the adoption process.

DCS will ensure that a diligent search is conducted to locate all possible family members to discuss adoption, followed by searching for a non-relative potential adoptive family for all children with a permanency plan of adoption.

SNAP

In 1989, Indiana established a program for hard to place children who are in the custody of the state. This program is federally mandated and referred to as the Special Needs Adoption Program

Chapter 2

Child Protection Team

Statutes and Duties

Child Protection Team Statutes

Legal Base

The following is the text of the legal mandate located in the Indiana Juvenile Code which establishes Child Protection Teams.

Information Maintained by the Office of Code Revision Indiana Legislative Services Agency

IC 31-33-3

Chapter 3. Community Child Protection Team

IC 31-33-3-1

Community child protection team established; members

Sec. 1. (a) A community child protection team is established in each county. The community child protection team is a countywide, multidisciplinary child protection team. The team must include the following thirteen (13) members who reside in, or provide services to residents of, the county in which the team is to be formed:

(1) The director of the local office that provides child welfare services in the county or the local office director's designee.

(2) Two (2) designees of the juvenile court judge.

(3) The county prosecuting attorney or the prosecuting attorney's designee.

(4) The county sheriff or the sheriff's designee.

(5) Either:

(A) the president of the county executive in a county not containing a consolidated city or the president's designee; or

(B) the executive of a consolidated city in a county containing a consolidated city or the executive's designee.

(6) A director of a court appointed special advocate or guardian ad litem program or the director's designee in the county in which the team is to be formed.

(7) Either:

(A) a public school superintendent or the superintendent's designee; or

(B) a director of a local special education cooperative or the director's designee.

(8) Two (2) persons, each of whom is a physician or nurse, with experience in pediatrics or family practice.

(9) Two (2) residents of the county.

(10) The chief law enforcement officer of the largest law enforcement agency in the county (other than the county sheriff) or the chief law enforcement officer's designee.

(b) The director of the local office serving the county shall appoint, subject to the approval of the director of the department, the members of the team under subsection (a)(7), (a)(8), and (a)(9).

As added by P.L.1-1997, SEC.16. Amended by P.L.234-2005, SEC.102; P.L.146-2008, SEC.574.

IC 31-33-3-2

Election of team coordinator

Sec. 2. The team shall elect a team coordinator from the team's membership.
As added by P.L.1-1997, SEC.16.

IC 31-33-3-3

Duties of team coordinator

Sec. 3. The team coordinator shall supply the community child protection team with the following:

- (1) Copies of reports of child abuse or neglect under IC 31-33-7-1.
- (2) Any other information or reports that the coordinator considers essential to the team's deliberations.

As added by P.L.1-1997, SEC.16.

IC 31-33-3-4

Meetings; agenda

Sec. 4. (a) The community child protection team shall meet:

- (1) at least one (1) time each month; or
 - (2) at the times that the team's services are needed by the department.
- (b) Meetings of the team shall be called by the majority vote of the members of the team.
- (c) The team coordinator or at least two (2) other members of the team may determine the agenda.
- (d) Notwithstanding IC 5-14-1.5, meetings of the team are open only to persons authorized to receive information under this article.

As added by P.L.1-1997, SEC.16. Amended by P.L.234-2005, SEC.103.

IC 31-33-3-5

Recommendation to the department of child services

Sec. 5. The community child protection team may recommend to the department that a petition be filed in the juvenile court on behalf of the subject child if the team believes this would best serve the interests of the child.

As added by P.L.1-1997, SEC.16. Amended by P.L.234-2005, SEC.104; P.L.162-2011, SEC.43.

IC 31-33-3-6

Review of child abuse and neglect cases and complaints

Sec. 6. The community child protection team may receive and review:

- (1) any case that the department has been involved in within the county where the team presides; and
- (2) complaints regarding child abuse and neglect cases that are brought to the team by a person or an agency.

As added by P.L.1-1997, SEC.16. Amended by P.L.234-2005, SEC.105.

IC 31-33-3-7

Periodic reports

Sec. 7. (a) The community child protection team shall prepare a periodic report regarding the child abuse and neglect reports and complaints that the team reviews under this chapter.

- (b) The periodic report may include the following information:

(1) The number of complaints under section 6 of this chapter that the team receives and reviews each month.

(2) A description of the child abuse and neglect reports that the team reviews each month, including the following information:

(A) The scope and manner of the interviewing process during the child abuse or neglect assessment.

(B) The timeliness of the assessment.

(C) The number of children removed from the home.

(D) The types of services offered.

(E) The number of child abuse and neglect cases filed with a court.

(F) The reasons that certain child abuse and neglect cases are not filed with a court.

As added by P.L.1-1997, SEC.16. Amended by P.L.146-2008, SEC.575; P.L.131-2009, SEC.39.

IC 31-33-3-8

Confidentiality of matters reviewed

Sec. 8. The members of the community child protection team are bound by all applicable laws regarding the confidentiality of matters reviewed by the team.

As added by P.L.1-1997, SEC.16.

Child Protection Team Membership / Operations

Personal Qualifications of Team Members

Personal qualifications of team members may include:

1. an ability to function as a team member;
2. a willingness to give personal time, talent, and expertise;
3. professional expertise in a particular field of endeavor;
4. experience and/or knowledge in the field of services to children and families;
5. an ability to communicate clearly and concisely;
6. respect for the ideas and opinions of others, but also an ability to provide constructive criticism;
7. respect in the community; and
8. a willingness to constantly learn and improve.

Term of Membership

No term of membership is established, but individual membership on the team should be reviewed on a regular basis to determine continued availability and interest and regularity of attendance. Equal consideration should be given for continuing the appointment of current team members as for appointing new members. A good time for such a review may be during the

development of the biennial Child Protection Plan. Should a team member resign, the Director of the Local office should immediately seek a replacement and forward the information to the DCS director.

Mode of Operation

There must be thirteen members on the team. Although 13 is the required number for membership, there is the possibility of dividing the team into mini-teams. Smaller sub-groups of three (3) or four (4) team members could review a large selection of reports and either make recommendations themselves or bring the case before the larger team. In counties with a large number of reports, this procedure relieves the coordinator of the sole responsibility to decide which cases to select for review. The whole team can then review only the most problematic cases, yet a majority of the reports receive at least a mini-multi-disciplinary review.

The Team Coordinator

Each team is required to elect a coordinator from its membership. This could be done on a yearly basis to rotate the position among members. Although the job of coordinator is time-consuming and requires a close working relationship with the Director of the local office and staff, a **non-DCS** coordinator can bring a community perspective to the team leadership and help establish the team as a community group. DCS also completes an Assessment of Alleged Child Abuse or Neglect Report at the conclusion of every assessment. The Coordinator of the CPT receives a copy of every substantiated assessment report completed by DCS.

"The team coordinator shall supply the community child protection team with copies of reports of child abuse or neglect..." The coordinator decides which reports are to be reviewed by the team. As previously suggested, mini-teams may review reports and recommend cases to be reviewed by the entire team. The coordinator may also personally review reports and select those to be reviewed by the team. The following are situations which may be reviewed by the CPT:

1. severe physical or sexual abuse;
2. cases with a prior history of abuse or neglect;
3. child less than one (1) year old with any physical abuse;
4. parent suspected of being dangerous;
5. cases in which parents refuse to cooperate or take steps to thwart assessment or services;
6. cases requiring legal consultation; e.g., parents refuse treatment for life threatening disorder, there is a need for a legal interpretation of state laws, etc.;
7. CHINS cases;
8. cases in which foster care is being considered;
9. multi-problem family involving an unusual number of agencies;
12. conflictual recommendations made by treatment sources;

13. issues which would be of educational benefit to the team; and

14. cases involving death, although this piece is now primarily covered by the Child Fatality Review Teams.

The coordinator must also supply the team with any other information or reports the coordinator considers essential to the team's deliberations.

Team Meetings

"The child protection team shall meet at least once a month..." In order to establish an effective working team, it is important that meetings are held regularly and with sufficient frequency to accomplish the goals of the team. This could entail monthly or even bi-monthly meetings. Team members should vote on a standing day and time for meetings and establish a day and time for additional non-emergency meetings to allow for the possibility that all team business may not be completed in one meeting each month.

Emergency meetings may be called in rare instances when considered essential to the safety of the child. The team should reach a consensus at the first meeting regarding a procedure to call emergency meetings. This should include the individual responsible to call the meeting and the number of members who must be present to conduct the team's business. The Child Protection Team members may also make themselves available to FCMs for telephone consultation when specific professional advice is needed.

Note: Central Office should at all times have a current list of CPT members, mailing addresses and telephone numbers.

"Meetings are open only to those persons authorized to receive information..." IC 5-14-1.5 requires the meetings of public agencies (the CPT is considered a public agency under this section) to be open to the public, unless otherwise provided by statute IC 31-33-18-1. According to DCS policy, "meetings of the CPT are open only to persons authorized to receive information under this article".

Team Responsibilities

Each team member reviews reports of child abuse and neglect from the perspective of that member's professional discipline or life experience. This assures that all variables have been considered in assessment of the individuals and facts in each report and that all resources have been considered in treatment. In some cases they may recommend to the department that a petition be filed in the juvenile court on behalf of the child if the team believes this would serve the best interests of the child. Some specific factors that may be considered are:

1. seriousness of an injury or neglect,
2. degree of risk for re-abuse,
3. case plans for each family member,
5. amenability to treatment,
6. return of child from foster care/safety of the home,

7. appropriateness of the case plan on an on-going basis,
8. coordination of treatment sources, and
9. appropriate use of community resources.

The Child Protection Team acts in a purely advisory capacity. Recommendations are made on the best course of action, but DCS is not obligated or mandated to follow the recommendations of the Team. Decisions about child abuse and neglect cases rest solely with the DCS Local offices.

"The child protection team may receive and review..."

1. Any case the local DCS has been involved in within the county where the team presides; and
- (2) complaints regarding child abuse and neglect cases that are brought to the team by a person or an agency.
3. In addition to complaints received by the Ombudsman complaints regarding the DCS's responsibilities pertaining to child abuse and neglect cases. The recommended procedures for addressing complaints regarding existing cases is as follows:
 - a. The complaint is verbally presented to the FCM.
 - b. If not resolved, the complaint is verbally addressed to the FCM's supervisor.
 - c. If not resolved, the complaint is verbally addressed to the Director of the local office or designee, who will respond in writing to inform of the decision, the next steps in the complaint process and time frames.
 - d. If still not resolved, the complainant will prepare the complaint in writing for the CPT coordinator within sixty (60) days of date of aforementioned notices.
 - e. The CPT coordinator will present the case to the CPT members to determine if the complainant will be given a hearing.
 - f. The CPT coordinator will respond to the complainant in writing to indicate that 1) the review was denied, or 2) a date, time and place the hearing has been scheduled.
 - g. If a review is scheduled, team members should pre-determine the amount of time to be devoted to the hearing and the date by which a response will be made.
 - h. After the review hearing and deliberation, the response from the team should be in writing.
 - i. A copy of the written request for hearing and written response must be forwarded by the team coordinator to the LOCAL OFFICE director and regional manager.

The recommended procedure for addressing DCS concerns that are not case-specific is as follows: The complainant will contact the team coordinator in writing and the coordinator will decide on the merits of the complaint and schedule a review if deemed appropriate.

"The Child Protection Team's duties may also include..." The CPT's duties shall include preparation of a periodic report regarding the child abuse and neglect reports and complaints the team reviews. The periodic report may include:

1. the number of complaints the team receives and reviews each month.
2. a description of the child abuse and neglect reports the CPT reviews each month. The description should include the following information:
 - a. the scope and manner of the interviewing process during child abuse and neglect assessments;
 - b. the timeliness of the assessment;
 - c. the number of children removed from home;
 - d. the types of services offered;
 - e. the number of child abuse and neglect cases filed with a court;
 - f. the reasons certain child abuse and-neglect cases are not filed with a court.

Chapter 3

Role Expectations for Child Protection Team Members

Role Expectations for Child Protection Team Members

1. Coordinator. The coordinator is at the heart of an effective team. The enthusiastic, conscientious coordinator provides a sound framework for team functioning, a positive model for other team members, and a reliable interface between Child Protection Services and Child Protection Team. Responsibilities of the coordinator are:

1. to review all reports of child abuse or neglect,
2. to select cases to be presented at team meetings,
3. to develop an agenda for team meetings,
4. to notify all members of meeting times and dates (the agendas of which require public notice, as do the Executive Sessions)
5. to assure attendance of appropriate family case managers and presenters,
6. to chair the team meetings,
7. to keep the Director of the local office informed of team activities and developments, and
8. to assure the orientation of new members.
9. coordinate with DCS for distribution of public notices
10. receive copies of the Assessment reports

2. The Representative of the Department of Child Services. The responsibility of the DCS representative is to be the liaison between the local office and the Child Protection Team. This individual should help team members to understand the policies and procedures of DCS, provide background on specific cases or on relevant past decisions and keep the team members aware of the local office's relationship with the community.

3. The Juvenile Court Representatives. The responsibility of the Juvenile Court representatives is to provide opinion and information on cases from the court's point of view. These persons should assist the team and FCMs to understand the strengths and weaknesses of a case from an adjudicatory perspective as well as possible options through the court. The Juvenile Court representatives also serve as liaisons between the local office and various parts of the court system.

4. Law Enforcement. The sheriff or the sheriff's designee on the team is responsible to provide background data on any criminal aspects of specific cases. This individual should also be responsible for efforts to help team members understand the difference between child abuse as a crime and child abuse as a psychosocial problem, and to increase coordination efforts between law enforcement and the local office.

5. Prosecutor or Prosecutor's Designee. The prosecutor or the prosecutor's designee on the team is responsible to provide interpretation of legal issues on specific cases, including juvenile law and adult criminal law. The prosecutor or the prosecutor's designee serves to focus case discussion on the legal rights to which the child and family are entitled, not on services or

opportunities which would be considered helpful or morally right. This individual can provide information to the team concerning protocol and policy issues related to selection of cases for prosecution as well as provide assistance to DCS regarding appropriateness of investigative activities. The prosecutor or the prosecutor's designee can also serve as a legal resource to the team when it is considering policy questions or advocacy issues brought by the local office. The prosecutor or the prosecutor's designee is also expected to be the liaison between the local office and the legal community.

6. Medicine. The physician or nurse members of the team are responsible for reviewing and interpreting the medical data related to child abuse and neglect cases for team members. This could include interpretation of test and x-ray results, a description of the immediate impact as well as the potential for long-term residuals of specific injury and neglect situations, and the provision of information about normal child growth and development. These individuals can advise about possible future risks to child. The medical professionals are also expected to be the contact point between the local office and the local medical community such as other physicians, nurses, hospitals, and public health offices.

7. CASA or GAL. The CASA or GAL representative is responsible to comment on the proposed case plan or progress of an established case plan and to offer input into other services provided by DCS, offering alternatives when appropriate. This team member should be an advocate for the children involved in abuse and neglect cases, providing information to the team about appropriate services available in the community.

8. Education. The representative from the community schools is responsible to provide input to case discussion from an educator's viewpoint as well as to inform the FCM and team members of possible referral resources available within the school system. Educators have the unique opportunity to observe children over long periods of time and under various conditions and times of day, which allows them a frame of reference to normality which is a strong asset to the team's discussion. School personnel are closely involved with children and parents in the community. This relationship is important for a successful educational experience for children. When a report of child abuse or neglect is made, the communication between home and school often breaks down. The teacher's only information about the implication and effects of the abuse and the report of the abuse on the child may be through the FCM. The school representative is responsible to help identify and overcome communication barriers which may develop between the schools and the local office.

9. Local government. The local government representative is responsible to keep the team informed about any input received from individuals and the community as large about issues of child abuse and neglect.

10. Citizen member. The citizen member on the team may represent a business or community service group or may be a parent aide, a foster parent, a CASA volunteer, social worker, mental health worker or an individual active and interested in children's well-being. This team member is expected to provide input on cases brought to the team based on personal life experience as a parent and/ or community activist and to be responsible to keep the team aware of community concerns about child abuse and the local office.

Chapter 4
Options for Child Protection
Team Activity

The local offices are in large measure bound by the policies and procedures of the Indiana Department of Child Services and by state and federal legislation. How those policies are implemented within a specific county may depend to some extent on the decisions made by the local office with regard to the size of the county, the staff, resources, and community standards and cultures. The Child Protection team may be helpful because of their knowledge of community resources, as well as the variety of viewpoints within the community. Members should give expert opinion about community processes, systems and barriers. They should discuss creative solutions to help support families while they are involved with DCS. Members should share their expertise, their differing perspectives, and their discipline knowledge to help break down barriers for families and build up supports during and after involvement.

In addition to the legally mandated activities for which the Child Protection Team is responsible, there are other possibilities for CPT involvement. Some of these possibilities might include consultation, advocacy, training or public awareness activities. The extent to which the team becomes involved in any of these activities depends on the time commitment of individual team members, the willingness of individual members to give additional time to the team, the child abuse and neglect case load in the local office and the service and prevention needs of the county.

Child Protection Plan (660A). IC 31-33-4:

Each Indiana Regional Services Council (RSC) must hold a public hearing prior to the preparation of the local Child Protection Plan for the delivery of child protection services. The Child Protection Plan is required to be completed prior to February 2 of each even-numbered year.

Each RSC (after a public hearing) will:

1. Prepare a local plan for the provision of child protection services; and
2. Submit the plan to:
 - a. The Indiana Department of Child Services (DCS) Agency Director,
 - b. Each juvenile court within the region,
 - c. The community Child Protection Team (CPT), and
 - d. Appropriate public and voluntary agencies, including organizations for the prevention of Child Abuse and/or Neglect (CA/N).

The local Child Protection Plan must describe the implementation for the delivery of child protection services in the region by DCS, including:

1. Organization;
2. Staffing;
3. Mode of operations;
4. Financing of the child protection services; and
5. The provisions made for the purchase of service and interagency relations.

The DCS Agency Director will certify whether the local plan fulfills and meets the provision of child protection services no later than **60** days after receiving the Child Protection Plan.

If the DCS Agency Director certifies that the local plan does not fulfill the purposes and meet the provisions of child protection services, the DCS Agency Director will:

1. State the reasons for the decision;
2. Make revisions to the plan that the Director determines are necessary to meet the requirements and fulfills the purpose of child protection services; and
3. Approve and certify the revised plan as the local plan required in IC 31-33-4.

Advocacy. Individually and as a Team, members of the Child Protection Team can have considerable influence in the community on children's issues. The Team can use this influence to advocate for the rights of specific children as well as children in general.

Confidentiality concerns prevent public statements in the media about specific cases, but the Team can publicly advocate in the media for such issues as the need for adequate funding for prevention; for expanded treatment sources for children, families and offenders; for foster parent recruitment; and for protection of victims' privacy in the media. This is particularly true in sexual abuse cases.

On many issues, advocacy must extend beyond the local community and become a statewide or nationwide effort. The Child Protection Team may consider lending their unified support for issues which affect children across the state or country. This could be established by the developing partnerships among other youth serving entities.

Training. The Child Protection Team members have expertise in a variety of areas which can be utilized to assist DCS to provide protection and safety to children. It is to the advantage of the team members and local office staff to share this expertise through periodic training sessions by a Child Protection Team member for other Child Protection Team members or for local office staff. Occasionally, other community professionals might also be invited to provide training to the Child Protection Team members. Medical information; current developments in forensic investigation and prosecution of child abuse and neglect; innovations in treatment programs; programs on family relationships throughout the lifespan; families with multiple stressors, or the effects of abuse on a child in school are just a few of the possibilities for training which could be presented to the team or to FCMs. The Child Protection Team should consider devoting at least part of the team meeting to training two or three times each year. Teams should also insure that all members become familiar with the Community Child Protection Team Manual which is furnished in each region, as well as on-line.

Public Education. The energy and influence of the Child Protection Team members can be directed very productively toward public awareness and education efforts. The first step in prevention is widespread public awareness about the presence of and extent of the problem of child abuse and neglect in the community. People in the community need to know the forms of child abuse and neglect, the indicators of abuse and neglect, how to recognize it in children, how to report suspected abuse and neglect, and information about prevention and treatment.

Members' contacts with professional peers can serve as an excellent basis from which to approach community organizations and services about child abuse and neglect concerns. There are a variety of ways in which the Team can become involved in public awareness.

Possible projects include:

1. Development of a Speakers' Bureau in which Team members make themselves available to speak on child abuse and neglect to service organizations such as Exchange Clubs or the Rotary, parents' groups, professional associations, agency in-service training sessions, or targeted organizations such as schools or medical facilities.
2. Distribution of prevention and awareness material either upon request from organizations or by Team members' presence at health fairs, 4H fairs, shopping malls, and other high traffic areas.
3. Organization and moderation of a public forum on children's issues of concern in the community.

4. Sponsorship of a prevention program in the community aimed at parents or children.
5. Sponsorship' of workshops to educate professionals on recent child abuse and neglect research, treatment options, or prevention strategies.

As relatively objective observers of the operation of the local office, the Child Protection Team members can assume a public relations role for the local office. Formally or informally, the Team can help the public to understand the function of DCS and its limitations and resources. This role could be especially visible during Indiana Child Abuse and Neglect Prevention and Awareness Month (ICANPAM) in April of each year. During this time, the Child Protection Team should work to assure that the attention of the media and community is on the problem of child abuse and neglect. Considering the diversity of knowledge and opinion, focusing on issues from the local office's perspective can help align the community and local office on critical issues.

Chapter 5

Minimum Standards of Care

**Guidelines used by
Family Case Managers**

Minimum Standards of Care

The definition of physical child abuse or neglect is based on the child's not receiving the necessary food, clothing, shelter, medical care, education or supervision or the child's physical or mental health is seriously endangered due to injury or omission by the child's parent, guardian, or custodian. DCS will make a finding of "**substantiated**" when facts obtained during the assessment provide a **preponderance** of evidence that is sufficient to lead a reasonable person to believe that Child Abuse and/or Neglect (CA/N) has occurred or when the alleged perpetrator admits to having abused and/or neglected the alleged child victim. In determining whether a case is substantiated as abuse or neglect, the DCS case manager must make a judgment decision about whether the facts of the case fit the legal description of abuse or neglect. The operant words in making this decision are "necessary" and "seriously".

DCS will make a finding of "**unsubstantiated**" when facts obtained during an assessment provide credible evidence that CA/N has **not** occurred. Case Managers will carefully review and weigh all evidence collected during the assessment and consider the credibility of each piece of evidence collected and place greater weight on those pieces of evidence that have greater credibility. They will further consult with a Supervisor as needed to arrive at an assessment finding, and document the finding and rationale in the assessment records

DCS will complete an Assessment of Alleged Child Abuse or Neglect Report at the conclusion of every assessment. They will then provide a copy of every substantiated assessment report to the Prosecuting Attorney and send a copy to the Coordinator of the Community Child Protection Team (CCPT). Upon request, DCS will also make available all "unsubstantiated" reports, prior to expungement. A copy of each "substantiated" report will be sent to the coordinator of the CCPT unless, due to the high number of these reports monthly, an agreement has been reached and is in writing between DCS and the CCPT that an alternate selection method will be used. Upon request, DCS will make available a copy of any Assessment of Alleged Abuse or Neglect Report (substantiated or unsubstantiated) to the appropriate Court and/or Law Enforcement Agency.

Family case managers receive training from DCS to help prepare them to make these types of judgment decisions. The training is based on the premise that a child's current life experiences reflect a continuum of care encompassing a variety of needs. Within this continuum, there are levels of adequacy, all of which may vary, but which must be considered as a whole in evaluating if a child's total needs are being met. A second premise is that minimum adequacy or a "minimum sufficient level of care" is the mandatory expectation of "necessary" and only below this expectation is the child's physical and mental health "seriously endangered". The determining factor of the level at which the care becomes inadequate or below the minimum sufficient level is community standards.

Both of these premises assume the child is living in the family home. If the child is living in a foster care home, it can be expected that the standards of care will exceed the minimum. Levels of adequacy can be differentiated by describing a continuum from survival to security to growth. Survival refers to staying alive; security includes safety and belonging. Once alive and secure, the child's physical, intellectual and emotional growth and development can occur. When placing a child in a licensed foster care home, the local office may expect the adequacy of the care given the child to approach the growth level on the continuum so the child may be given the opportunity to overcome previous harm.

DCS uses various assessment tools in its FCM training program. Please refer to Appendix B

One must also understand that every child develops differently, and that development is not the “stair step” process once believed to be the norm. Children can stop and start new skills; regress in previously mastered skills while learning new areas. They may take longer to learn a skill based on environment, nurturing, etc. Below are simply some general guidelines around development, and it is not all inclusive. However we hope it will aid in providing some broad information regarding the larger milestones. *

Developmental Needs: Physical/Motor Skills

Normal Development During First Six Months

Turns head toward sounds
Begins to smile at people
Can briefly calm himself
(may bring hands to mouth to suck)
Tries to look at parent
Holds up head
Rolls over
Grasps toys
Follows objects with eyes
Lifts chest
Begins to pass things from one
hand to the other
Rocks back and forth

Possible Indicators of Problems

Does not respond to sounds
Flat affect: little to no crying or smiling
Baby seems “floppy”, like a rag doll
Cannot hold head up
Does not make sounds
General inertness/listlessness
Does not attempt to roll over
Does not watch things

During First to Second Year

Sits with propping
Sits alone
Creeps or crawls
Stands alone
Walks with help and eventually alone
Reaches for objects
Pincer grasp developed
Stands, holding on
Pulls self to stand
Sways to music
Uses fingers to point at things
Puts out arm or leg to help with dressing
Responds to simple spoken requests
Says “mama” and “dada” and exclamations like “uh-oh!”
Begins to drink from a cup
Some coordination between looking, hearing, grasping

Severe delays in acquiring muscle
coordination, in grasping objects,
sitting, standing
Flat affect
Does not bear weight
Does not look where you point
May lose skills he/she once had

During Second Year

Walks alone
Climbs up stairs
Throws a ball
Releases object in hand
Uses spoon
Kicks a ball

Severe delay in walking
Very irregular patterns of eating, sleeping,
eliminating.
Cannot use pincer grasp
Unaware of what familiar items are for

Begins to run
Makes or copies lines/circles

During Third Year

Climbs up and down
Throws and kicks a ball
Jumps with two feet
Rides a tricycle
Turns pages
Scribbles
Throws ball overhead
Moves in time to music
Dresses and undresses self
Becomes upset with routine changes
Will begin to use the potty

Crossed eyes
Rapid involuntary eye movements
Other eye problems: tilting head,
holding objects close, squinting.
Unsteady
Frequently falls down
Can't handle simple objects
Speech is unclear
Loses skills previously mastered

By Fifth Year

Draws, copies geometric figures
Can place pegs on board
Balances/hops on one foot
Jumps over obstacles
Runs, stops, starts, turns, hops
Has better balance
Enjoys playground activities
Should be using the potty
Exhibits three-point pencil grasp

Constant, continuous repetitive
motions such as headbanging,
rocking, twiddling fingers, robot-like
walking, arm flapping
Severe clumsiness, disorientation,
awkwardness
Walks on tiptoe excessively
Exhibits tics or similar signs of anxiety
Unable to brush teeth, wash hands
or get undressed without help

Developmental Needs: Cognitive/Social Emotional Skills

Normal Development

During First Six Months

Makes babbling sounds, coos
Pays attention to faces
Mimics sounds
May act "bored"
Responds to affection
Recognizes familiar faces from a distance
Likes to play
Shows curiosity and reaches for items
Responds to others' emotions
Likes looking into a mirror
Begins to make sounds...both vowels and consonants
("ah", "eh", "m", "b")

Does not coo or make sounds
Does not watch things
Does not smile
Flat affect
Does not reach for items

During First to Second Year

Distinguishes between shapes,
sounds, people
Associates words with ideas, people,
objects
Imitates movements observed in

Does not recognize people
Does not respond to name
Does not play
Does not say at least 6 words
Does not say simple/single words

own behavior
 Begins to focus on activities outside
 own body
 Uses familiar schemas in new situations
 Some stranger anxiety
 May have favorite toys
 Cries when a parent leaves
 Responds to spoken requests
 Uses simple gestures
 Begins simple language, e.g. "dada"
 Tone changes in sounds
 Explores by shaking, throwing, banging
 Finds hidden objects
 Plays games
 Shows fear in some situations
 Points to a body part
 Can obey one-step commands, e.g. "stand up"
 Points to an object he or she wants
 May play simple pretend games, e.g. feed doll
 Temper tantrums may begin
 Is willing to explore alone, but wants a parent near

Does not search for hidden items
 Does not recognize familiar items
 Does not notice (care) when parent leaves

During Second Year

Develops symbolic thought
 Points to named body parts
 Can solve simple problems
 Begins to understand concept of space
 Initiates new actions, repeats actions with
 variation
 Looks for objects where seen last, even
 prolonged search (hidden under 2 or 3 items)
 Can solve problems without visible trial and error
 First ability to pretend
 Follows directions
 Uses 2-4 word phrases
 Begins to include other children in play
 Points to things in a book
 May build block towers of 4 or more blocks
 Begins to sort shapes/colors
 Begins to challenge authority
 Completes sentences in familiar books
 Begins to follow 2-step instructions
 May begin to name items in a book

Actions do not vary – confined to
 basic reflexes without progressing
 in complexity
 Cannot follow simple directions
 Unaware of what to do with familiar items

During Third to Fourth Year

Thought is egocentric
 Recognizes numbers and letters
 Makes decisions on basis of perception
 not logic
 Considers all objects capable of feeling

Extreme difficulty in following directions
 Cannot focus on two features at the same
 time
 Withdrawn
 No eye contact

Moral judgments made on extent of damage	Does not pretend
Says "I", "Me", "We", "You"	Very unclear speech
May have 2-3 sentence conversations	Does not understand basic directions
Plays make believe	
May screw or unscrew a jar lid or door handle	
Knows what "two" means	
Can manipulate toys with moving parts	
Takes turns	
Shows a wide range of emotion	
Can show empathy	
Can separate from parent/caregiver	
Dress/undress self	

By Fifth Year

Has better concepts of time, space, direction, size, shape	Lack of interest in unfamiliar objects
Points to colors	Little variability in activity
Names shapes	Severe distractibility: uncontrollably drawn to all stimuli
Counts to 10 or more	Lack of problem solving behaviors:
Can print some numbers/letters	Tantrum response to any frustration
Recognizes own printed name	Cannot do simple tasks without help
Increasing attention span	Flat affect
Speaks clearly	Does not use tenses/plurals correctly
Can understand the future tense	Cannot give first or last name
Can draw a person with 6 body parts	
Knows about "everyday" things, e.g. food, going some place	
Knows his/her gender	
Wants to please, especially friends	
Can differentiate between real and pretend	

*Center for Disease Control and Prevention

Chapter 6

Child Protection Team Development

Community Child Protection Team Development

In any setting, a team comes into existence when one person cannot accomplish a job and several individuals must cooperate to assure the mission is accomplished. In order for the team to be effective, the members must coordinate their individual knowledge, skills and experiences to create a cooperative effort.

Effective teams share several characteristics. They have mutually agreed upon and fully understandable goals and objectives. The leader is one who is willing to take the responsibility, not just one who has a title. Effective teams make their own decisions about team process. Decisions are a team effort. Information is shared by the members. They are disciplined and set high standards for team performance. They appreciate and acknowledge each other.

Such teams do not just happen. Members must be continually attentive to group process and the needs of the team. Team development has a vital function in the success of the group. A successful team solves problems. Improving the way members interact will increase its problem solving ability. Better problem solving ability leads to increased efficiency that, in turn, boosts morale and productivity. Once established, a productive team is self-perpetuating. Four variables which a team should consider in the process of team development are goals, roles, procedures, and relationships.

Goals. The goals of the Community Child Protection Team are those outcomes which all members agree should be the focus of team activity, keeping in mind of course what is required by statute and policy, e.g. preparing a periodic report regarding the CA/N reports and complaints that they are charged to review. Other goals teams might consider can be developed from the needs of the community and the personal interests of individual members. Goals should be clear, measurable, objective, and acceptable to all members. In reviewing goals, certain components should be considered.

Case Reviewing

Objectives:

1. Review all documents according to required timeline.
2. Recommend case plan objectives to accommodate changing situations.
3. Utilize community resources effectively and appropriately.
4. Reduce interagency communication problems.

Community Interface

Objectives:

1. Advocate for children's issues.
2. Organized child abuse and neglect prevention and awareness campaigns.
3. Create positive public relations for the LOCAL OFFICE.
4. Provide DCS policy consultation.
5. Become training resources for the LOCAL OFFICE, CPT, and community.

Roles. Team members must know what others want and expect from them. Ambiguity in role expectations produces stress and hampers performance. Role clarity is a team responsibility as much as an individual responsibility. Clarity cannot be assumed. Expectations must be verified. It may be helpful for CPT members to consider their roles on a four-part matrix. A member's role as an individual and as part of the team is on one axis. A consultant to the LOCAL OFFICE and a community interface are the role descriptions on the other axis.

	Consultant to LOCAL OFFICE	Community Interface
Individual		
Team Member		

Team members must consider their individual role. Perhaps diagramming the role on this type of matrix and sharing the results with the team would be helpful. The results can be related to actual practice, allowing members to clarify their individual role with what the team may expect from them and to determine if these role assumptions fit with the goals adopted by the team. Role conflicts, work overload or continued role ambiguity must be discussed and resolved to allow the team to develop.

Procedures. All members must know how best to get the work accomplished. Decisions about meeting procedures should be established and agreed upon by the group (within statutory and policy guidelines). The procedures should be available in written format to provide a reliable basis for communication and problem solving. Some procedural decisions which must be made are:

1. **Day, time, and place of meetings** The meeting time should be one that is best suited for the majority of team members. Often early morning meetings (before members start work) are the most convenient. The meeting location should be easily accessible to all members, have sufficient parking, be comfortable and well lit, and offer access to refreshments. The most important logistical aspect of CPT meetings is that the day, time, and place of meetings remain constant from month to month. This allows team members to plan ahead to attend and eliminates confusion about where and when meetings will be held.
2. **Selection of Coordinator** The team must decide how the coordinator will be selected, how long the coordinator will serve, and what will be expected from the coordinator.
3. **Which cases are to be presented** Decisions must be made by the team regarding case selection for presentation: Every report or every substantiated case may be reviewed. When time constraints do not permit review of all cases, FCMs may choose specific cases. The coordinator and FCMs may jointly decide which cases are to be presented with the approval of the Local Office Director. Consideration must be given to the specific guidelines for case selection specified in statute or policy. The cases to be presented should be placed on the meeting agenda along with any other business to be considered by the team.

4. **Presentation format** Cases to be presented for discussion should be summarized in written form by the FCM and should be made available to team members at the start of the meeting (copies of State Form 114(R9-06)/FPP 0310 and State Form 113(R8/7-12)/FPP 0311 may substitute for a separate summary). The FCM should be present at the meeting and be prepared to formulate specific questions for team discussion and to answer any questions the team may have about the case. Formal presentation on any case should be limited to approximately five minutes.

5. **Discussion format** The coordinator is responsible to facilitate case review discussion, keeping the discussion focused on the decisions to be made. Several formats for discussion might be considered. A standardized discussion format that focuses on key questions could be utilized for each case, or each member could be asked to comment on any aspect of the case. The floor could be opened up for discussion on specific questions about individual cases.

An important consideration for any adopted format must be a built-in time limit for discussion. Some cases may require only a brief discussion, but even more complicated cases should be allotted no more than thirty minutes of discussion time.

6. **Recommendations** Recommendations made by the team should be documented in the minutes and in the appropriate case file.

7. **Feedback and re-review** One of the most effective ways to assure that the team members give sound, practical recommendations about cases is to provide feedback about past decisions. Time should be allotted during every meeting to discuss past recommendations and why they did or did not work. This task is an effective informal learning process for members as well as a reinforcement of their efforts. The team might decide all cases of a certain category; e.g., foster care, be re-reviewed; or members may request that individual cases be reassessed after a certain period of time.

8. **Attendance of members** An attendance policy must be established by team members. It is recognized that team members have pressing time commitments, but the Child Protection Team cannot function effectively without active participation from each team member. If a team member is unable to attend meetings on a regular basis, the member should be asked to resign to allow someone to be appointed who can commit the necessary time. A specific limit on the number of acceptable absences should be established, and peer pressure should be used to maintain those limits.

9. **Orientation of new members** There should be an agreed-upon process to introduce new members to the structure and process of the Child Protection Team. This process is usually the responsibility of the coordinator with assistance from the DCS Representative, but may be delegated to any "seasoned" member. Orientation activities should be individualized depending on the knowledge and expertise new members bring to the team. At a minimum, new members should have access to this manual and have someone available to answer their specific questions. All team members, but especially new team members, should be informed and encouraged to take advantage of workshops or seminars related to child abuse and neglect issues.

10. Visitors Visitors are generally not permitted to attend Child Protection Team meetings because of confidentiality requirements. After consultation with the Local Office's legal counsel, the team should decide under what, if any, circumstances an exception to this policy would be made.

11. Confidentiality Teams need to establish a policy to ensure the confidentiality of meetings. This policy should be done in consultation with the Local Office's legal counsel, and according to relevant statutes. All team members are required to sign an annual confidentiality statement. Further assurances of confidentiality may mean using initials to identify case clients or collecting all written materials at the conclusion of each meeting. Some teams have opted to create individual folders for members that remain at the Local Office and are distributed to members at each meeting.

12. Relationships Relationships among team members tend to fall into a natural harmonious pattern if the other three factors which affect team development are considered. Trust, communication, and mutual respect among members will be established if goals and objectives are clear, roles are understood, and procedures are written. It is important that all team members pay attention to team process on an on-going basis. Regular discussion should be held concerning what happens in meetings, allowing differences to be heard and resolved. Team members should support each other with regard to individual commitment to team effort.

Chapter 7

Self-Assessment Tool

Self-Assessment

Team development is based on the assumption that any group is able to work more effectively if members are prepared to confront questions such as: How can this collection of individuals work together more effectively as a team? How can the knowledge and resources each member brings to the team be better utilized? How can communication be more effective to improve decision-making? What are the obstacles to performance improvement?

The periodic review of a team's mode of operation, taking into consideration factors which are paramount to team development, is a simple and useful method to improve a team's effectiveness. The Team Effectiveness Critique, described below and developed by Mark Alexander, can be used by a Child Protection Team to measure their effectiveness. The critique should be completed by each team member. Each member can share the results with the entire group during a team meeting periodically held for this purpose. This exercise can be expanded to a consensus activity when the team is asked to reach a common assessment about each of the nine factors. Agreement about areas in which improvement is needed can lead to team action planning. This exercise is only an example of one self-assessment tool; there are other self-assessment and team-building exercises available that are also effective, so each team should explore what is most appropriate for their needs.

Factors to be assessed in evaluating team effectiveness:

Shared Goals and Objectives. An effective team must have stated goals and objectives to which all members are committed. The goals must include an understanding of the immediate task, the role of the group in relation to DCS and the social services system as a whole, the team's responsibilities, and the things the team wants to accomplish.

Utilization of resources. Team effectiveness is enhanced when each member has the opportunity to contribute and when all opinions are heard and considered. Each team members must be responsible for taking advantage of opportunities to contribute and creating a team atmosphere which fosters equal contribution by each member.

Trust and Conflict Resolution. Key factors in team development are the creation of a feeling of mutual trust, respect, and understanding, and the ability of the team to deal with inevitable conflicts that will arise within the group.

Shared Leadership. Although the coordinator has much of the responsibility to organize team process, the entire team must accept shared leadership for both task functions and maintenance functions. Task functions are those activities necessary to complete the job; maintenance functions are those activities necessary to keep the group together and interacting effectively. This may occur by rotating the position of coordinator and by various members assuming a leadership role in introducing issues for discussion during team meetings.

Control and Procedures. Team development and team member commitment is facilitated through maximum involvement in the establishment of procedures for team activity.

Effective Interpersonal Communication. Open and honest communication among team members is necessary to build trust needed to allow the team to effectively proceed with its work.

Approach to Problem Solving and Decision-making. There are a variety of methods to solve problems and to make decisions. An effective team must approach these two processes in a manner which is shared and supported by each team member.

Experimentation/Creativity. One reason individuals meet and work as a team is to stimulate experimentation and creativity in problem-solving. Techniques such as "brainstorming", which increases creativity, should be utilized periodically to generate new ideas to address issues.

Evaluation. The self-assessment suggested in this section should be used to assist the team to evaluate team goal achievement and what, if any, hindrances exist to team effectiveness.

The Team Effectiveness Critique

Instructions: Indicate on each scale your assessment about the manner in which your team functions by circling the number which you think is most descriptive of your team.

1.Goals and Objectives

There is a lack of commonly understood goals and objectives.

Team members understand and agree on goals and objectives.

1	2	3	4	5	6	7
---	---	---	---	---	---	---

2.Utilization of Resources

All member resources are not recognized and/or utilized.

Member resources are fully recognized and utilized.

1	2	3	4	5	6	7
---	---	---	---	---	---	---

3.Trust and Conflict

There is little trust among members, and conflict is evident.

There is a high degree of trust among members, and conflict is dealt with openly and worked through.

1	2	3	4	5	6	7
---	---	---	---	---	---	---

4. Leadership

One person dominates, and leadership roles are not carried out or shared.

There is full participation in leadership roles are shared by members.

1	2	3	4	5	6	7
---	---	---	---	---	---	---

5. Control and Procedures

There is little control, and there is

There are effective procedures to guide

a lack of procedures to guide team functioning.

team functioning; team members support Procedures and regulate themselves.

1	2	3	4	5	6	7
---	---	---	---	---	---	---

6. Interpersonal Communication

Communications between members are closed and guarded.

Communications between members are open and interactive.

1	2	3	4	5	6	7
---	---	---	---	---	---	---

7. Problem Solving/Decision-Making

The team has no consensus regarding approaches to problem solving and decision making.

The team has well-established approaches to problem solving and decision making, agreed upon by all team members

1	2	3	4	5	6	7
---	---	---	---	---	---	---

8. Experimentation/Creativity

The team is rigid and does not Experiment with how things are done.

The team experiments with different Ways of doing things and is creative in its approach.

1	2	3	4	5	6	7
---	---	---	---	---	---	---

9. Evaluation

The group never evaluates its functioning or process.

The group often evaluates its functioning and process.

1	2	3	4	5	6	7
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Appendix A

Bibliography and Resources

Bibliography and Resources

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6. American Humane Association Children's Division. 63 Inverness Drive East, Englewood, CO 80112 303-792-9900 (public education, research, information).
7. Child Welfare League of America. 440 First Street NW, Suite 310, Washington, DC 20001
8. Children's Defense Fund. 122 C Street NW, Washington, DC 20001 202-628-8787 (research, publications, public education).
9. Connect2Help 1-800-CHILDREN or 211
10. Darkness to Light: 7 Radcliffe Street, Suite 200 Charleston, SC 29403 National Helpline: **866.FOR.LIGHT** Administrative Office: **843.965.5444**
11. National Center on Child Abuse and Neglect (NCCAN) / National Clearinghouse on Child Abuse and Neglect Information. P.O. Box 1182, Washington, DC 20013-01182 800-394-3366 (research, information).
12. National Center on Shaken Infant Syndrome www.dontshake.org 1433 North 1075 West Suite 110 Farmington, UT 84025 801-447-9360 Office
13. **Prevent Child Abuse** America. 332 South Michigan Avenue #950, Chicago IL 60604 312-663-3520 (research, programs, printed materials).
14. **Prevent Child Abuse** Indiana. 3833 North Meridian Street, Ste 101, Indianapolis, IN 46208 317-775-6500 or 800-CHILDREN (speakers, training, information, brochures)

Appendix B

Glossary of Terms

Glossary of Terms

Abandonment: Act of a parent or caregiver leaving a child without adequate supervision or provision for the child's needs for an excessive period of time and with no intention of returning. The age of the child is an important factor. In legal terminology, "abandonment cases" are suits calling for a CHINS, or for the termination of parental rights.

Adjudication: Finding of the court which determines a child's legal status as a child in need of services, a delinquent, or a dependent child.

Administrative hearing: A hearing conducted by the Division at the request of an alleged perpetrator of a substantiated report of abuse or neglect to consider whether an entry in the child abuse registry should be amended or expunged. This applies only to failed services referral agreements.

Administrator: The person who manages and conducts the official business of the DCS local office. By statute, this is the local office director.

Advocacy: Interventive strategy in which a helping-person assumes an active role in assisting or supporting a specific child and/or family or a cause on behalf of children and/or families. The advocate uses his/her power to meet client needs or to promote causes.

Appropriate Family Member: Relative to relationship, this term is limited to the language in IC 31-9-2-106.5 and IC 31-9-2-107 which delineates blood and adoptive relatives. In keeping within the context, the blood or adoptive relative would also need to be deemed suitable and willing to take the child in question.

Assessments: An evaluation of a report of child abuse or neglect.

Automated Child Protection System: The computerized system which maintains a case history file and transmits information regarding substantiated cases to the Department. The system must be able to search within the county and within the child abuse and neglect registry maintained by the Department for related cases. The system that the state formerly used was the Indiana Child Welfare Information System (ICWIS). Indiana's system now being utilized is the Management Gateway for Indiana's Kids (MaGIK).

Battered Child Syndrome: Term introduced C. Henry Kempe, M.D., in the Journal of the American Medical Association, in an article describing a combination of physical and other signs indicating that a child's internal and/or external injuries result from acts committed by a parent or caregiver. Frequently this term is misused or misunderstood as the only type of child abuse and neglect.

CAN: Child Abuse and Neglect

Child and Adolescent Needs and Strengths (CANS): Assessment to document the intensity of behavioral health services needed by the child and family. The CANS will be the basis for planning individualized services for children. The CANS Assessment will also play a critical role in informed decision making regarding the type of placement a child needs once the decision to place has been made.

Child Family Team Meeting: It is a strengths-based approach to the initial and on-going assessment of children and families. It brings family members and other supportive people together to determine what led to the family's involvement with the Department of Child Services.

CASA: Court Appointed Special Advocate; community volunteers or an employee of a county program who is appointed by a court to represent and protect the best interests of a child by providing the child with services requested by the court, including:

- (A) researching;
- (B) examining;
- (C) advocating;
- (D) facilitating; and
- (E) monitoring the child's situation.

Case Plan: A written document which includes at least the following: A description of the type of home or institution in which a child is to be placed, including a discussion of the appropriateness of the placement and how the agency which is responsible for the child plans to carry out the judicial determination made with respect to the child...; and a plan for assuring that the child receives proper care and that services are provided to the parents, child, and foster parents in order to improve the conditions in the parents' home, facilitate return of the child to the child's own home or the permanent placement of the child, and address the needs of the child while in foster care, including a discussion of the appropriateness of the services that have been provided to the child under the plan.

Child: A person who by reason of minority, is legally subject to parental, guardianship or similar control. A person may also be considered a "child" if they are up to age 20. This individual may still have an open CHINS case, or may be in Collaborative Care.

Child abuse or neglect: Refers to a child who is alleged to be a child in need of services as defined in IC 31-34-1-1 through IC 31-34-1-5. See definition for "child in need of services".

Child Development: Pattern of sequential stages of interrelated physical, psychological, and social development in the process of maturation from infancy and total dependence to adulthood and relative independence.

Child in Need of Services: A child is a child in need of services if before the child's eighteenth birthday as defined by **IC 31-34-1-1 - IC 31-34-1-11**

- (1) the child's physical or mental condition is seriously impaired or seriously endangered as a result of the inability, refusal, or neglect of the child's parent, guardian, or custodian to supply the child with necessary food, clothing, shelter, medical care, education, or supervision;
- (2) the child's physical or mental health is seriously endangered due to injury by the act or omission of the child's parent, guardian, or custodian. An omission is an occurrence in which the parent, guardian, or custodian allowed that person's child to receive any injury the parent, guardian, or custodian had a reasonable opportunity to prevent or mitigate;
- (3) the child is the victim of a sex offense under the criminal citations incorporated into the CHINS definition;

- (4) the child's parent, guardian, or custodian allows the child to participate in an obscene performance;
- (5) the child's parent, guardian, or custodian allows the child to commit a sex offense;
- (6) the child substantially endangers the child's own health or the health of another;
- (7) the child's parent, guardian, or custodian fails to participate in a disciplinary proceeding in connection with the student's improper behavior, where the behavior of the student has been repeatedly disruptive in the school;
- (8) the child is a missing child;
- (9) the child is born with fetal alcohol syndrome or with any amount, including a trace amount, of a controlled substance or a legend drug in the child's body; the child has an injury, an abnormal physical or psychological development; or is at a substantial risk of a life threatening condition that arises or is substantially aggravated because the child's mother used alcohol, a controlled substance, or a legend drug during pregnancy.

Child Protection Index: The centralized, computerized registry established and maintained by the Department to organize and access data regarding substantiated child abuse and neglect reports received from courts, law enforcement, and DCS from throughout the state. The child abuse registry will be contained in the Management Gateway for Indiana's Kids (MaGIK).

CHINS: Child in Need of Services

Concurrent Planning requires the FCM and CFT to plan and work towards both reunification and another permanency plan. The intent of Concurrent Planning is that both plans will be pursued simultaneously and aggressively.

Corporal Punishment: Any kind of punishment inflicted upon the body.

Court Appointed Special Advocate (CASA): A community volunteer who has: 1) completed a training program approved by the court; 2) has been appointed by a court to represent and to protect the interests of a child; and 3) may research, examine, advocate, facilitate, and monitor a child's situation.

Credible Evidence: Information deemed sufficiently trustworthy that it produces conviction in the mind as to the existence of a fact. Such information, if presented to individuals of similar background and training, would be accepted by those individuals as believable and indicative that a child was or was not abused or neglected.

Custodian: The caregiver with whom the child resides. This includes any person responsible for the child's welfare who is employed by a public or private residential school or foster care facility.

DCS Local offices: Department of Child Services' offices located in local counties

DD: Developmental Disability

Detention: Placement in a shelter care facility of a child who is, or appears to be, a child in need of services.

DHHS: United States Department of Health and Human Services

Disposition: The decision which a judge makes for a child's care, treatment, or rehabilitation.

Early Intervention: Programs and services focused on prevention by relieving family stress before child abuse and neglect occur. For example, Healthy Families, helplines, Head Start, home health visitors, early and periodic childhood screening, diagnosis and treatment (EPSDT), crisis nurseries, First Steps (Part H).

Emancipation: Release of child from parental control and responsibility.

EPSDT: Early and Periodic Screening, Diagnosis and Treatment. Program enacted in 1967, under Medicaid (Title 19 of the Social Security Act), with detection of potentially disabling conditions among all children in out-of-home care.

Exigent: Situations that would cause a reasonable person to believe that a timely interview with the child is necessary due to concerns for the child's well-being and safety and that seeking parental/guardian/custodian consent first may harm the child or place the child in greater danger. The parent, guardian, or custodian must be notified as soon as possible after the interview, but no later than the same day in which the interview occurred.

Expert Witness: Witnesses with various types of expertise who may testify in child abuse or neglect cases.

Expungement: Destruction of records.

Family Preservation Services: Short term, highly intensive services designed to protect, treat, and support 1) a family with a child at imminent risk of placement by enabling the family to remain intact and care for the child at home and 2) a family that adopts or plans to adopt an abused or a neglected child who is at imminent risk of placement or adoption disruption by assisting the family to achieve or maintain a stable, successful adoption of the child.

Family Services: Services provided to : (1) prevent a child from being removed from a parent, guardian, or custodian; (2) reunite the child with a parent, guardian, or custodian; or (3) implement a permanent plan of adoption, guardianship, or emancipation of a child.

Family Support Programs geared toward the common goal of increasing the ability of families to successfully nurture their children. These programs are designed to enhance the effective functioning within the family and to foster a sense of family self-sufficiency and empowerment.

FTT: Failure to thrive.

Guardian: A person appointed by a court to have the care and custody of a child, the child's estate, or both.

Guardian Ad Litem (GAL): a volunteer, an attorney, or an employee of a county program who is appointed by a court to represent and protect the best interests of a child by providing the child with services requested by the court, including:

- (A) researching;
- (B) examining;
- (C) advocating;
- (D) facilitating; and

(E) monitoring the child's situation.

Healthy Families Indiana: A voluntary home visitation program designed to promote healthy families and healthy children through a variety of services including child development, access to health care, and parent education. The services are home-based and intensive based upon a risk assessment completed at the time of birth (or within three months of birth).

IC: Indiana Code - a codification of Indiana legislation

ICANPAM: Indiana Child Abuse and Neglect Prevention and Awareness Month. Held in April each year.

Immediate: As it relates to investigation time frames, the term means:

- 1) within one (1) hour in situations when there is reason to believe that a child is in imminent danger of serious bodily harm; -
- 2) within twenty-four (24) hours in situations of alleged child abuse which do not call for a response within one (1) hour; or
- 3) within five (5) days in situations of alleged child neglect which do not call for a response within one (1) hour.

Imminent Danger: Unrestricted access to the victim by the alleged perpetrator resulting in the possibility of further abuse/neglect or an environmental condition which is life or health endangering. Conditions which place a child in imminent danger or which have resulted in bodily harm to a child.

Immunity: Immunity refers to the legal protection from civil or criminal liability provided to a complainant of a child abuse or neglect report.

Indiana Commission on Public Records: State Agency that is responsible for all public records that use a sequential numbering system based on month and year revised or created, or approved

Informal Adjustment: Informal Adjustments must be filed in Court. They are appropriate family and/or rehabilitative services that are offered to the family or child. DCS has no legal authority to require the family to accept such services without the intervention of the court. The FCM may petition the court or initiate a program of informal adjustment if it would serve the best interest of the child. Reasonable efforts must be made to provide family services designed to prevent removal of the child from the home unless the safety of the child precludes such efforts. DCS must coordinate, provide, or arrange for, and monitor all services offered to the family, as well as monitor the safety and well-being of the child(ren)

Institutional Abuse or Neglect: Institutional Child Protection Services (ICPS) for DCS assess allegations of abuse or neglect regarding children in an institutional setting when the alleged perpetrator is responsible for the child's care and safety. Reports are received through the statewide hotline and assessments are initiated within the assigned timeframe (1 hour, 24 hours, 5 days). After assessment, ICPS will make a determination of the allegations to be either substantiated or unsubstantiated. Further services, referrals, and safety plans may take place during or at the conclusion of the assessment to ensure the child's safety and reduce further risk. Further, referrals for prosecution of the perpetrators may be indicated (substantiated

cases). ICPS assessments are completed by the ICPS Unit, consisting of several Family Case Managers stationed throughout the State. ICPS will conduct assessments involving, but not limited to: Licensed Daycare Facilities, Daycare Ministries, Licensed Daycare Homes, Schools (public and private), Residential facilities, Department of Corrections, other situations involving a person who is professionally responsible for providing care and ensuring safety of children. ICPS will NOT conduct assessments involving Licensed Foster Homes through DCS, Licensed Foster Homes through a private agency, Fatality or near-fatality assessments regardless of allegations or where said allegations took place.

Intake Worker: A family case manager or probation officer who performs the intake, preliminary inquiry, or other functions specified by the juvenile court or the Juvenile Code.

Intensive Family Preservation:

The goal of this service is to remove the risk of harm to the child instead of removing the child. Families are given the opportunity to learn new behaviors, and help them make better choices for their children. Child safety is ensured through small caseloads, program intensity, and 24-hour service availability. Intensive home based preservation services are also available for pre-adoption and post-adoption services for adoptive families at risk or in crisis. Services include intensive casework services for multi-problem and/or severely dysfunctional families that is provided in the family's home. Help is available to clients 24 hours a day, 7 days per week which allows close monitoring of potentially dangerous situations and to defuse the potential for violence.

Involuntary Termination of Parental Rights: No significant progress within 6 mos. Of removal. The Court in a CHINS case has entered a finding that reasonable efforts for family preservation or reunification are not required or a child has been removed from the home and is in placement as a result of the child being an alleged CHINS for 15 of the most recent 22 mos.

LEA: Law Enforcement Agency

Legend Drug: Legal drugs approved by DHHS. In the context of DCS, these drugs are inappropriately prescribed or are stolen from the manufacturing facility and illegally distributed.

Mandated Agency: Agency designated by state statute to receive and investigate reports of suspected child abuse or neglect. In Indiana, this agency is the Indiana Dept. of Child Services

NCCAN: National Center on Child Abuse and Neglect, Washington, D.C.

Omission: An occurrence, in the context of Child Protection Services, in which the parent, guardian, or custodian allowed a child to receive an injury the parent, guardian, or custodian had a reasonable opportunity to prevent or mitigate.

Parent: A biological or adoptive parent. Unless otherwise specified in the Code, the term refers to both mother and father regardless of marital status. In some situations, it will include alleged parents

Permanency Hearing: There is no 'formal' definition of a permanency hearing, either in state or federal law. The permanency hearing replaces the 12-month formal review hearing. The purpose is to consider and approve a permanency plan or modify an existing plan.

Periodic Case Review: The scheduled case review of each child who is a ward of the Department of Child Services. This is to occur no less frequently than once every six (6) months by court review.

Perpetrator:. The individual determined to have committed child abuse or neglect.

Petition:. A formal pleading, containing allegations against or about the juvenile, used to initiate a formal court proceeding.

Predispositional Report:. A report prepared by the family case manager to assist the juvenile court to arrive at a disposition.

Preliminary Inquiry:. 31-39-2-24 A formal investigation into facts and circumstances reported to the court.

Preponderance of the Evidence:. As a standard of proof, superior or excessive weight of the evidence.

Probable Cause:. The existence of facts and circumstances within one's knowledge and of which one has reasonable trustworthy information, which are sufficient in themselves, in the context of child welfare, to warrant one to believe a child is in need of services.

Protective Order:. An injunction ordered by the court to control the conduct of any person in relation to the child, to provide a child with an examination or treatment or to prevent a child from leaving county jurisdiction.

Quality Service Review (QSR) is a way for the Department of Child Services (DCS) to determine the quality of practice and services of the child welfare system. The QSR is conducted for several reasons: 1) to determine if the system is working appropriately and effectively to meet the needs of children and their families; 2) to assess the outcomes for individual children and families; and 3) to evaluate how well the child welfare service system is implementing the practice model skills (Teaming, Engaging, Assessing, Planning and Intervening) The QSR process is the best way for DCS and system partners to identify both the strengths and the opportunities for improvement within the child welfare system. The data collected is used to assess the current status of the child and family and determine if services are customized to meet the needs of the families. Statewide data will be collected, using the results to affect change in practice, policies and procedures.

Reflective Practice Survey (RPS) is a tool that uses quality measures to review cases and assess FCM's TEAPI skills to achieve better outcomes for children and families. The RPS is utilized for several reasons: 1) to assess FCM skills through field observations; 2) to organize conversations between FCMs and Supervisors in order to identify particular strengths and areas of concerns in the case reviewed; and 3) to utilize interview questions to guide the conversations between FCMs and Supervisors so that barriers that are thwarting efforts or results while highlighting strengths in practice will be identified.

Reasonable Efforts, Judicial Determination of. Effective October 1, 1983, 42 USC 671, specifically requires that "... in each case, reasonable efforts will be made (a) prior to the placement of a child in foster care, to prevent or eliminate the need for removal of a child from his home, and (b) to make it possible for the child to return to his home...". The health and safety of the child are the paramount concern.

Rebuttable Presumption:. An ordinary presumption which must, as a matter of law, be made once certain facts have been proved, and which is said to establish a certain conclusion prima facie once those facts have been adduced. The presumption may be rebutted or overcome through the introduction of contrary evidence.

Reunification Services: Services designed to reunite with their families children who have been placed out of the home.

Secure Facility: A place of residence other than a shelter care facility, which prohibits the departure of the child. (IC 31-9-2-114)

Serious Bodily Harm: An injury or trauma requiring immediate medical attention or treatment.

Sex offense: Any one of the following: rape, criminal deviate conduct, child molestation, child exploitation/pornography, sexual misconduct with a minor, child seduction, public indecency or indecent exposure, prostitution, incest, matter or performance harmful to minors, obscene performance, and voyeurism.

Shaken Infant Syndrome: Injury to an infant or child which results from the infant or child having been shaken, usually as a result of frustration from the child's caregiver. The frustration usually stems from the caregiver's inability to cope with the child's inconsolable crying. The most common symptoms, which are inflicted by seemingly harmless shaking, are bleeding and/or detached retinas and other bleeding inside the head. Repeated instances of shaking may cause mental and developmental disabilities or in some instances death.

Shelter Care Facility: A place of residence licensed under the laws of any state which is not locked to prevent a child's departure, unless it is determined locking is necessary to protect the child.

SIDS: Sudden Infant Death Syndrome

Social Security Act: Federal legislation enacted in 1935 to create the public welfare system. In the current amended form, public assistance (Title IV-A, which is the TANF Program), child welfare services (Title IV-B), foster care and adoption assistance (Title IV-E), child support (Title IV-D), Medicaid (Title XIX), and Social Services Block Grant (Title XX) are now included in the Social Security Act.

Standard of Evidence: Degree of proof required by a court to make a decision. In juvenile court, the standard of evidence used to make a CHINS decision is a 'preponderance of evidence' as opposed to 'proof beyond a reasonable doubt', which is the standard used in criminal or delinquency cases. A finding that a child committed a delinquent act must be based on proof beyond a reasonable doubt. Barring certain exceptions, a finding in a termination of parental rights must be based on clear and convincing evidence. There are provisions which provide that a party may file a motion to dismiss a termination petition if certain circumstances exist, such as the child lives with are relative; the case plan documents a compelling reason not to proceed; services have not been provided to insure the safe return of the child; or the time period of services has not yet run. The party filing the motion to dismiss must show these factors by a preponderance of the evidence.

Status Offenders: Delinquent juveniles, including runaways, truants, those who are habitually disobedient to their parent, guardian or custodian, and those who violate curfew laws, fireworks violations, or alcoholic beverage code.

STD: Sexually transmitted disease

Substantiated: A determination regarding the status of a child abuse/neglect report whenever facts obtained during an investigation of the report provide credible evidence that child abuse or neglect has occurred.

Placement Options:. The following criteria must be addressed in considering the suitability of a potential relative caregiver:

- 1) the location of the prospective relative caregiver's residence. The person or family must reside within a reasonable distance from the original parent/caregiver from whom the child was removed if reunification is a potential goal;
- 2) the ability of the potential caregiver to parent the child according to the needs and best interests of the child; and
- 3) whether the parent/caregiver from whom the child was removed approves of the proposed relative placement. Placement with a parent involved in a custody dispute with the parent from whom the child has been removed is inappropriate.

Educational Surrogate Parent:. An individual assigned to look after the educational needs and rights of disabled children whose parents are unknown or unavailable.

TANF:. Temporary Assistance to Needy Families.

Termination of Parental Rights:. A legal proceeding to free a child from the parents' claims in order to allow the child to be adopted by others without written parental consent.

Trauma Informed Care: According to the National Center for Trauma-Informed Care, it is an approach to engaging people with histories of trauma that recognizes the presence of trauma symptoms and acknowledges the role that trauma has played in their lives.

Unsubstantiated:. A determination regarding the status of a child abuse/neglect report whenever facts obtained during an investigation of the report provide credible evidence that child abuse or neglect has not occurred.

Voir Dire:. 1) Procedure during which attorneys question prospective jurors to determine biases, if any. 2) Procedure during which attorneys question expert witnesses regarding qualifications before the experts are permitted to give opinion testimony.

*** All assessments** require face-to-face contact by either a family case manager or a law enforcement agent (LEA) with the caregiver, regardless of investigation status and on the same day as the alleged victim is seen, alleged victim(s), other children in household, and alleged perpetrator, if other than the caregiver and if the investigation substantiates abuse or neglect.

Appendix C
Forms and Tools Used by
Department of Child Services

Appendix D

Juvenile Codes

Appendix D
Indiana Juvenile Code
Synopsis

Indiana Juvenile Code
CPT Code Citations and Copies of Sections

Prepared October 12, 2012

Child Welfare Laws

IC 31-33-2

Repealed

(Repealed by P.L.145-2006, SEC.376.)

IC 31-9-2-0.4

"Abandoned child"

Sec. 0.4. "Abandoned child", for purposes of IC 31-34-21-4 and IC 31-35-2-6.5, means a child who is, or who appears to be, not more than thirty (30) days of age and whose parent:

- (1) has knowingly or intentionally left the child with an emergency medical services provider; and
- (2) did not express an intent to return for the child.

As added by P.L.1-2009, SEC.154. Amended by P.L.128-2012, SEC.21.

IC 31-9-2-0.5

"Abandoned infant"

Sec. 0.5. "Abandoned infant", for purposes of IC 31-34-21-5.6, means:

- (1) a child who is less than twelve (12) months of age and whose parent, guardian, or custodian has knowingly or intentionally left the child in:
 - (A) an environment that endangers the child's life or health; or
 - (B) a hospital or medical facility;and has no reasonable plan to assume the care, custody, and control of the child; or
- (2) a child who is, or who appears to be, not more than thirty (30) days of age and whose parent:
 - (A) has knowingly or intentionally left the child with an emergency medical services provider; and
 - (B) did not express an intent to return for the child.

As added by P.L.35-1998, SEC.2. Amended by P.L.133-2000, SEC.1; P.L.217-2001, SEC.2; P.L.1-2009, SEC.155; P.L.128-2012, SEC.22.

IC 31-9-2-9.6

"Assessment"

Sec. 9.6. "Assessment", for purposes of IC 31-25 and IC 31-33, means an initial and ongoing investigation or evaluation that includes:

- (1) a review and determination of the safety issues that affect a child and:
 - (A) a child's parents, guardians, or custodians; or
 - (B) another individual residing in the residence where the child resides or is likely to reside;
- (2) an identification of the underlying causes of the safety issues described in subdivision (1);

- (3) a determination whether child abuse, neglect, or maltreatment occurred; and
- (4) a determination of the needs of a child's family in order for the child to:
 - (A) remain in the home safely;
 - (B) be returned to the home safely; or
 - (C) be placed in an alternative living arrangement.

As added by P.L.131-2009, SEC.6.

IC 31-9-2-13

"Child"

Sec. 13. (a) "Child", for purposes of IC 31-15, IC 31-16 (excluding IC 31-16-12.5), and IC 31-17, means a child or children of both parties to the marriage. The term includes the following:

- (1) Children born out of wedlock to the parties.
- (2) Children born or adopted during the marriage of the parties.

(b) "Child", for purposes of the Uniform Interstate Family Support Act under IC 31-18, has the meaning set forth in IC 31-18-1-2.

(c) "Child", for purposes of IC 31-19-5, includes an unborn child.

(d) Except as otherwise provided in this section, "child", for purposes of the juvenile law and IC 31-27, means:

- (1) a person who is less than eighteen (18) years of age;
- (2) a person:
 - (A) who is eighteen (18), nineteen (19), or twenty (20) years of age; and
 - (B) who either:
 - (i) is charged with a delinquent act committed before the person's eighteenth birthday;

or

(ii) has been adjudicated a child in need of services before the person's eighteenth birthday; or

(3) a person:

(A) who is alleged to have committed an act that would have been murder if committed by an adult;

(B) who was less than eighteen (18) years of age at the time of the alleged act; and

(C) who is less than twenty-one (21) years of age.

(e) "Child", for purposes of IC 31-36-3, means a person who is less than eighteen (18) years of age.

(f) "Child", for purposes of the Interstate Compact on Juveniles under IC 31-37-23-1, has the meaning set forth in IC 31-37-23-1.

(g) "Child", for purposes of IC 31-16-12.5, means an individual to whom child support is owed under:

- (1) a child support order issued under IC 31-14-10 or IC 31-16-6; or
- (2) any other child support order that is enforceable under IC 31-16-12.5.

(h) "Child", for purposes of IC 31-32-5, means an individual who is less than eighteen (18) years of age.

(i) "Child", for purposes of the Uniform Child Custody Jurisdiction Act under IC 31-21, has the meaning set forth in IC 31-21-2-3.

As added by P.L.1-1997, SEC.1. Amended by P.L.27-2004, SEC.1; P.L.145-2006, SEC.177; P.L.120-2007, SEC.1; P.L.138-2007, SEC.7; P.L.133-2008, SEC.4; P.L.48-2012, SEC.10.

IC 31-9-2-14

"Child abuse or neglect"

Sec. 14. (a) "Child abuse or neglect", for purposes of IC 31-32-11-1, IC 31-33, IC 31-34-7-4, and IC 31-39-8-4, refers to a child described in IC 31-34-1-1 through IC 31-34-1-5, regardless of whether the child needs care, treatment, rehabilitation, or the coercive intervention of a court.

(b) For purposes of subsection (a), the term under subsection (a) does not refer to a child who is alleged to be a victim of a sexual offense under IC 35-42-4-3 unless the alleged offense under IC 35-42-4-3 involves the fondling or touching of the buttocks, genitals, or female breasts, regardless of whether the child needs care, treatment, rehabilitation, or the coercive intervention of a court.

(c) "Child abuse or neglect", for purposes of IC 31-34-2.3, refers to acts or omissions by a person against a child as described in IC 31-34-1-1 through IC 31-34-1-9, regardless of whether the child needs care, treatment, rehabilitation, or the coercive intervention of a court.

As added by P.L.1-1997, SEC.1. Amended by P.L.1-2006, SEC.496; P.L.52-2007, SEC.6; P.L.48-2012, SEC.11.

IC 31-9-2-16.4

"Child caregiver"

Sec. 16.4. "Child caregiver", for purposes of section 31 of this chapter, means a person who provides, or is responsible for providing, care and supervision of a child (other than a child of whom the person is a parent, stepparent, grandparent, aunt, uncle, sibling, legal guardian or custodian with whom the person resides) at a residential property that is not the child's place of residence, if the person:

(1) is not required to be licensed as the operator of:

(A) a child care home under IC 12-17.2-5; or

(B) a foster family home under IC 31-27-4;

(2) provides care and supervision of a child while unattended by the child's:

(A) parent;

(B) guardian; or

(C) custodian with whom the child resides; and

(3) receives more than two thousand dollars (\$2,000) in annual compensation for providing care and supervision of a child or children.

As added by P.L.124-2007, SEC.8.

IC 31-9-2-28

"Court appointed special advocate"

Sec. 28. (a) "Court appointed special advocate", for purposes of IC 31-15-6, IC 31-17-6, IC 31-19-16, IC 31-19-16.5, IC 31-28-5, and the juvenile law, means a community volunteer who:

(1) has completed a training program approved by the court;

(2) has been appointed by a court to represent and protect the best interests of a child; and

(3) may research, examine, advocate, facilitate, and monitor a child's situation.

(b) "Court appointed special advocate", for purposes of IC 31-33, IC 31-34, IC 31-35, and IC 31-37, means a community volunteer who:

(1) has completed a training program approved by the court that includes training in:

(A) the identification and treatment of child abuse and neglect; and

(B) early childhood, child, and adolescent development;
as required by 42 U.S.C. 5106a(b)(2)(B)(xiii);
(2) has been appointed by a court to represent and protect the best interests of a child; and
(3) may research, examine, advocate, facilitate, and monitor a child's situation.
*As added by P.L.1-1997, SEC.1. Amended by P.L.196-1997, SEC.1; P.L.14-2000, SEC.63;
P.L.133-2008, SEC.5; P.L.48-2012, SEC.12.*

IC 31-9-2-31 **"Custodian"**

Sec. 31. (a) "Custodian", for purposes of the juvenile law, means a person with whom a child resides.

(b) "Custodian", for purposes of IC 31-34-1, includes any person who is:

(1) a license applicant or licensee of:

(A) a foster home or residential child care facility that is required to be licensed or is licensed under IC 31-27;

(B) a child care center that is required to be licensed or is licensed under IC 12-17.2-4; or

(C) a child care home that is required to be licensed or is licensed under IC 12-17.2-5;

(2) a person who is responsible for care, supervision, or welfare of children while providing services as an owner, operator, director, manager, supervisor, employee, or volunteer at:

(A) a home, center, or facility described in subdivision (1);

(B) a child care ministry, as defined in IC 12-7-2-28.8, that is exempt from licensing requirements and is registered or required to be registered under IC 12-17.2-6;

(C) a home, center, or facility of a child care provider, as defined in IC 12-7-2-149.1(4);

(D) a home, center, or facility that is the location of a program that provides child care, as defined in section 16.3 of this chapter, to serve migrant children and that is exempt from licensing under IC 12-17.2-2-8(6), whether or not the program is certified as described in IC 12-17.2-2-9; or

(E) a school, as defined in section 113.5 of this chapter;

(3) a child caregiver, as defined in section 16.4 of this chapter;

(4) a member of the household of the child's noncustodial parent; or

(5) an individual who has or intends to have direct contact, on a regular and continuing basis, with a child for whom the individual provides care and supervision.

*As added by P.L.1-1997, SEC.1. Amended by P.L.146-2006, SEC.12; P.L.124-2007, SEC.9;
P.L.162-2011, SEC.7.*

IC 31-9-2-37 **"Delinquent child"**

Sec. 37. (a) "Delinquent child", for purposes of the juvenile law, except as provided in subsection (b), means:

(1) a child described in IC 31-37-1-1; or

(2) a child described in IC 31-37-2-1.

(b) "Delinquent child", for purposes of IC 31-37-23, has the meaning set forth in IC 31-37-23-4.

As added by P.L.1-1997, SEC.1.

IC 31-9-2-38.5

"Department"

Sec. 38.5. "Department", for purposes of IC 31-19 and IC 31-25 through IC 31-40, has the meaning set forth in IC 31-25-2-1.

As added by P.L.234-2005, SEC.82. Amended by P.L.145-2006, SEC.187; P.L.138-2007, SEC.16.

IC 31-9-2-42

"Domestic or family violence"

Sec. 42. "Domestic or family violence" means, except for an act of self defense, the occurrence of one (1) or more of the following acts committed by a family or household member:

(1) Attempting to cause, threatening to cause, or causing physical harm to another family or household member without legal justification.

(2) Placing a family or household member in fear of physical harm without legal justification.

(3) Causing a family or household member to involuntarily engage in sexual activity by force, threat of force, or duress.

(4) Beating (as described in IC 35-46-3-0.5(2)), torturing (as described in IC 35-46-3-0.5(5)), mutilating (as described in IC 35-46-3-0.5(3)), or killing a vertebrate animal without justification with the intent to threaten, intimidate, coerce, harass, or terrorize a family or household member.

For purposes of IC 22-4-15-1 and IC 34-26-5, domestic or family violence also includes stalking (as defined in IC 35-45-10-1) or a sex offense under IC 35-42-4, whether or not the stalking or sex offense is committed by a family or household member.

As added by P.L.1-1997, SEC.1. Amended by P.L.133-2002, SEC.21; P.L.189-2003, SEC.9; P.L.221-2003, SEC.3; P.L.97-2004, SEC.104; P.L.171-2007, SEC.2.

IC 31-9-2-44.8

"Family preservation services"

Sec. 44.8. "Family preservation services", for purposes of IC 31-26-6, means short term, highly intensive services designed to protect, treat, and support the following:

(1) A family with a child at risk of placement by enabling the family to remain intact and care for the child at home.

(2) A family that adopts or plans to adopt an abused or neglected child who is at risk of placement or adoption disruption by assisting the family to achieve or maintain a stable, successful adoption of the child.

As added by P.L.138-2007, SEC.17. Amended by P.L.146-2008, SEC.544.

IC 31-9-2-45**"Family services"**

Sec. 45. "Family services", for purposes of the juvenile law, means services provided to:

- (1) prevent a child from being removed from a parent, guardian, or custodian;
- (2) reunite the child with a parent, guardian, or custodian; or
- (3) implement a permanent plan of adoption, guardianship, or emancipation of a child.

As added by P.L.1-1997, SEC.1.

IC 31-9-2-50**"Guardian ad litem"**

Sec. 50. (a) "Guardian ad litem", for purposes of IC 31-15-6, IC 31-19-16, IC 31-19-16.5, IC 31-28-5, and the juvenile law, means an attorney, a volunteer, or an employee of a county program designated under IC 33-24-6-4 who is appointed by a court to:

- (1) represent and protect the best interests of a child; and
- (2) provide the child with services requested by the court, including:
 - (A) researching;
 - (B) examining;
 - (C) advocating;
 - (D) facilitating; and
 - (E) monitoring;

the child's situation.

A guardian ad litem who is not an attorney must complete the same court approved training program that is required for a court appointed special advocate under section 28 of this chapter.

(b) "Guardian ad litem", for purposes of IC 31-33, IC 31-34, IC 31-35 and IC 31-37, means an attorney, a volunteer, or an employee of a county program designated under IC 33-24-6-4 who:

- (1) is appointed by a court to represent and protect the best interests of a child;
- (2) is appointed by a court to provide the child with services requested by the court,

including:

- (A) researching;
 - (B) examining;
 - (C) advocating;
 - (D) facilitating; and
 - (E) monitoring;
- the child's situation; and
- (3) has completed training appropriate for the person's role, including training in:
 - (A) the identification and treatment of child abuse and neglect; and
 - (B) early childhood, child, and adolescent development;
- as required by 42 U.S.C. 5106a(b)(2)(B)(xiii).

A guardian ad litem who is not an attorney must complete the same court approved training program that is required for a court appointed special advocate under section 28 of this chapter.

As added by P.L.1-1997, SEC.1. Amended by P.L.196-1997, SEC.2; P.L.2-1998, SEC.72; P.L.98-2004, SEC.101; P.L.133-2008, SEC.6; P.L.1-2010, SEC.115; P.L.48-2012, SEC.15.

IC 31-9-2-52

"Health care provider"

Sec. 52. "Health care provider", for purposes of IC 31-32-6-4, IC 31-32-11-1, and IC 31-33, means any of the following:

- (1) A licensed physician, intern, or resident.
- (2) An osteopath.
- (3) A chiropractor.
- (4) A dentist.
- (5) A podiatrist.
- (6) A registered nurse or other licensed nurse.
- (7) A mental health professional.
- (8) A paramedic or an emergency medical technician.
- (9) A social worker, an x-ray technician, or a laboratory technician employed by a hospital.
- (10) A pharmacist.
- (11) A person working under the direction of any of the practitioners listed in subdivisions (1) through (10).

As added by P.L.1-1997, SEC.1. Amended by P.L.170-2009, SEC.10; P.L.1-2010, SEC.116.

IC 31-9-2-58.3

"Index"

Sec. 58.3. "Index", for purposes of IC 31-33-26, means the child protection index established under IC 31-33-26-2.

As added by P.L.138-2007, SEC.19.

IC 31-9-2-76.6

"Local office"

Sec. 76.6. "Local office", for purposes of this title, refers to a local office established by the department to serve a county or a region.

As added by P.L.146-2008, SEC.545.

IC 31-9-2-87

"Omission"

Sec. 87. "Omission", for purposes of IC 31-34-1-2, means an occurrence in which the parent, guardian, or custodian allowed the child of the parent, guardian, or custodian to receive an injury that the parent, guardian, or custodian had a reasonable opportunity to prevent or mitigate.

As added by P.L.1-1997, SEC.1.

IC 31-9-2-88

"Parent"

Sec. 88. (a) "Parent", for purposes of the juvenile law, means a biological or an adoptive parent. Unless otherwise specified, the term includes both parents, regardless of their marital status.

(b) "Parent", for purposes of IC 31-34-1, IC 31-34-8, IC 31-34-16, IC 31-34-19, IC 31-34-20

and IC 31-35-2, includes an alleged father.

As added by P.L.1-1997, SEC.1. Amended by P.L.162-2011, SEC.8.

IC 31-9-2-88.7

"Permanency roundtable"

Sec. 88.7. "Permanency roundtable", for purposes of IC 31-34-21-5.7 and IC 31-37-20-3, means an intervention designed to facilitate the permanency planning process for youth placed out-of-home by identifying solutions for permanency obstacles.

As added by P.L.48-2012, SEC.16.

IC 31-9-2-94

"Preliminary inquiry"

Sec. 94. "Preliminary inquiry", for purposes of IC 31-34 and IC 31-37, means an informal investigation into the facts and circumstances reported to the court.

As added by P.L.1-1997, SEC.1. Amended by P.L.197-1997, SEC.2; P.L.2-1998, SEC.74.

IC 31-9-2-101

"Reason to believe"

Sec. 101. "Reason to believe", for purposes of IC 31-33, means evidence that, if presented to individuals of similar background and training, would cause the individuals to believe that a child was abused or neglected.

As added by P.L.1-1997, SEC.1.

IC 31-9-2-103.6

"Region"

Sec. 103.6. "Region", for purposes of this title, refers to an area in Indiana designated as a region by the department. However, for purposes of:

- (1) IC 31-25-2-20, the term refers to a region established under IC 31-25-2-20; and
- (2) IC 31-26-6, the term refers to a service region established under IC 31-26-6-3.

As added by P.L.146-2008, SEC.549.

IC 31-9-2-103.7

"Regional services council"

Sec. 103.7. "Regional services council", for purposes of this title, refers to a regional services council established for a region under IC 31-26-6-4.

As added by P.L.146-2008, SEC.550.

IC 31-9-2-106

"Registry"

Sec. 106. "Registry", for purposes of IC 31-19-5, refers to the putative father registry established by IC 31-19-5-2.

As added by P.L.1-1997, SEC.1. Amended by P.L.145-2006, SEC.211; P.L.138-2007, SEC.29.

IC 31-9-2-106.5**"Related"**

Sec. 106.5. "Related", for purposes of IC 31-27 and IC 31-28-5.8, means any of the following relationships to an individual by marriage, blood, or adoption:

- (1) Parent.
- (2) Grandparent.
- (3) Brother.
- (4) Sister.
- (5) Stepparent.
- (6) Step-grandparent.
- (7) Step-brother.
- (8) Step-sister.
- (9) First cousin.
- (10) Uncle.
- (11) Aunt.

As added by P.L.145-2006, SEC.212. Amended by P.L.48-2012, SEC.17.

IC 31-9-2-107**"Relative"**

Sec. 107. (a) "Relative", for purposes of IC 31-19-18, IC 31-19-22, and IC 31-19-25, means:

- (1) an adoptive or whole blood related parent;
- (2) a sibling; or
- (3) a child.

(b) "Relative", for purposes of IC 31-34-3, means:

- (1) a maternal or paternal grandparent;
- (2) an adult aunt or uncle; or
- (3) any other adult relative suggested by either parent of a child.

As added by P.L.1-1997, SEC.1. Amended by P.L.131-2009, SEC.8; P.L.191-2011, SEC.10.

IC 31-9-2-109.5**"Residential placement committee"**

Sec. 109.5. "Residential placement committee", for purposes of IC 31-25-2-23, means a committee that reviews the placement of youth in a child caring institution, a private secure facility, or a group home licensed by the department to ensure that the placement is in the least restrictive, most family like, and most appropriate setting available and close to the parent's home, consistent with the best interests and special needs of the child.

As added by P.L.48-2012, SEC.18.

IC 31-9-2-113.7**"Secure detention facility"**

Sec. 113.7. "Secure detention facility", for purposes of this title, has the meaning set forth in IC 31-40-1-1.5.

As added by P.L.146-2008, SEC.551.

IC 31-9-2-114**"Secure facility"**

Sec. 114. "Secure facility", for purposes of the juvenile law, means a place of residence, other than a shelter care facility, that prohibits the departure of a child.

As added by P.L.1-1997, SEC.1.

IC 31-9-2-117**"Shelter care facility"**

Sec. 117. (a) Except as provided in subsection (b), "shelter care facility", for purposes of the juvenile law, means a place of residence that:

(1) is licensed under the laws of any state; and

(2) is not locked to prevent a child's departure unless the administrator determines that locking is necessary to protect the child's health.

(b) "Shelter care facility", for purposes of IC 31-27-3 and IC 31-27-5, means a child caring institution or group home that provides temporary service for not more than twenty (20) consecutive days to a child:

(1) who is admitted to a residential facility on an emergency basis;

(2) for twenty-four (24) hours a day; and

(3) who is:

(A) receiving care and supervision under an order of a juvenile court;

(B) voluntarily placed by the parent or guardian of the child; or

(C) self-referred.

As added by P.L.1-1997, SEC.1. Amended by P.L.145-2006, SEC.214; P.L.48-2012, SEC.19.

IC 31-9-2-123**"Substantiated"**

Sec. 123. "Substantiated", when used in reference to a child abuse or neglect report made under IC 31-33, means a determination regarding the status of the report whenever facts obtained during an assessment of the report provide a preponderance of evidence that child abuse or neglect has occurred.

As added by P.L.1-1997, SEC.1. Amended by P.L.146-2006, SEC.14; P.L.131-2009, SEC.9.

IC 31-9-2-128**Repealed**

(Repealed by P.L.138-2007, SEC.93.)

IC 31-9-2-129**"Team"**

Sec. 129. "Team", for purposes of IC 31-33-3, refers to a community child protection team appointed under IC 31-33-3.

As added by P.L.1-1997, SEC.1. Amended by P.L.55-1997, SEC.12; P.L.146-2008, SEC.553.

IC 31-9-2-130.3**"Transitional services plan"**

Sec. 130.3. "Transitional services plan", for purposes of IC 31-25-2-21, has the meaning set

forth in IC 31-25-2-21(a).
As added by P.L.143-2008, SEC.5.

IC 31-9-2-132

"Unsubstantiated"

Sec. 132. "Unsubstantiated", for purposes of IC 31-33 and IC 31-39-8-4, means a determination regarding the status of a report made under IC 31-33 whenever facts obtained during an assessment of the report provide credible evidence that child abuse or neglect has not occurred.

As added by P.L.1-1997, SEC.1. Amended by P.L.131-2009, SEC.10.

IC 31-9-2-133

"Victim of child abuse or neglect"

Sec. 133. (a) "Victim of child abuse or neglect", for purposes of IC 31-32-11-1 and IC 31-33, refers to a child as described in:

- (1) IC 31-34-1-1 through IC 31-34-1-5;
- (2) IC 31-34-1-10; or

- (3) IC 31-34-1-11;

regardless of whether the child needs care, treatment, rehabilitation, or the coercive intervention of a court.

(b) The term does not include a child who is alleged to be a victim of a sexual offense under IC 35-42-4-3 unless the alleged offense under IC 35-42-4-3 involves the fondling or touching of the buttocks, genitals, or female breasts.

As added by P.L.1-1997, SEC.1. Amended by P.L.48-2012, SEC.22.

IC 31-9-2-134.5

"Wardship"

Sec. 134.5. (a) "Wardship", for purposes of the juvenile law, means the responsibility for temporary care and custody of a child by transferring the rights and obligations from the child's parent, guardian, or custodian to the person granted wardship. Except to the extent a right or an obligation is specifically addressed in the court order establishing wardship, the rights and obligations of the person granted wardship include making decisions concerning the:

- (1) physical custody of the child;
- (2) care and supervision of the child;
- (3) child's visitation with parents, relatives, or other individuals; and
- (4) medical care and treatment of the child.

(b) "Wardship" does not apply to requirements for consenting to an adoption under IC 31-19-9

As added by P.L.146-2006, SEC.15.

IC 31-32-11

Chapter 11. Evidence

IC 31-32-11-1

Admissibility of privileged communications

Sec. 1. The privileged communication between:

- (1) a husband and wife;
- (2) a health care provider and the health care provider's patient;
- (3) a:
 - (A) licensed social worker;
 - (B) licensed clinical social worker;
 - (C) licensed marriage and family therapist;
 - (D) licensed mental health counselor;
 - (E) licensed addiction counselor; or
 - (F) licensed clinical addiction counselor;

and a client of any of the professionals described in clauses (A) through (F);

- (4) a school counselor and a student; or
- (5) a school psychologist and a student;

is not a ground for excluding evidence in any judicial proceeding resulting from a report of a child who may be a victim of child abuse or neglect or relating to the subject matter of the report or failing to report as required by IC 31-33.

As added by P.L.1-1997, SEC.15. Amended by P.L.122-2009, SEC.30.

IC 31-33

ARTICLE 33. JUVENILE LAW: REPORTING AND INVESTIGATION OF CHILD ABUSE AND NEGLECT

IC 31-33-1-1

Purpose of article

Sec. 1. The purpose of this article is to:

- (1) encourage effective reporting of suspected or known incidents of child abuse or neglect;
- (2) provide effective child services to quickly investigate reports of child abuse or neglect;
- (3) provide protection for an abused or a neglected child from further abuse or neglect;
- (4) provide rehabilitative services for an abused or a neglected child and the child's parent, guardian, or custodian; and
- (5) establish a centralized statewide child abuse registry and an automated child protection system.

As added by P.L.1-1997, SEC.16. Amended by P.L.234-2005, SEC.94.

IC 31-33-3

Chapter 3. Community Child Protection Team

IC 31-33-3-1

Community child protection team established; members

Sec. 1. (a) A community child protection team is established in each county. The community child protection team is a countywide, multidisciplinary child protection team. The team must include the following thirteen (13) members who reside in, or provide services to residents of, the county in which the team is to be formed:

(1) The director of the local office that provides child welfare services in the county or the local office director's designee.

(2) Two (2) designees of the juvenile court judge.

(3) The county prosecuting attorney or the prosecuting attorney's designee.

(4) The county sheriff or the sheriff's designee.

(5) Either:

(A) the president of the county executive in a county not containing a consolidated city or the president's designee; or

(B) the executive of a consolidated city in a county containing a consolidated city or the executive's designee.

(6) A director of a court appointed special advocate or guardian ad litem program or the director's designee in the county in which the team is to be formed.

(7) Either:

(A) a public school superintendent or the superintendent's designee; or

(B) a director of a local special education cooperative or the director's designee.

(8) Two (2) persons, each of whom is a physician or nurse, with experience in pediatrics or family practice.

(9) Two (2) residents of the county.

(10) The chief law enforcement officer of the largest law enforcement agency in the county (other than the county sheriff) or the chief law enforcement officer's designee.

(b) The director of the local office serving the county shall appoint, subject to the approval of the director of the department, the members of the team under subsection (a)(7), (a)(8), and (a)(9).

As added by P.L.1-1997, SEC.16. Amended by P.L.234-2005, SEC.102; P.L.146-2008, SEC.574.

IC 31-33-3-2

Election of team coordinator

Sec. 2. The team shall elect a team coordinator from the team's membership.

As added by P.L.1-1997, SEC.16.

IC 31-33-3-3

Duties of team coordinator

Sec. 3. The team coordinator shall supply the community child protection team with the following:

- (1) Copies of reports of child abuse or neglect under IC 31-33-7-1.
- (2) Any other information or reports that the coordinator considers essential to the team's deliberations.

As added by P.L.1-1997, SEC.16.

IC 31-33-3-4

Meetings; agenda

Sec. 4. (a) The community child protection team shall meet:

- (1) at least one (1) time each month; or
- (2) at the times that the team's services are needed by the department.

(b) Meetings of the team shall be called by the majority vote of the members of the team.

(c) The team coordinator or at least two (2) other members of the team may determine the agenda.

(d) Notwithstanding IC 5-14-1.5, meetings of the team are open only to persons authorized to receive information under this article.

As added by P.L.1-1997, SEC.16. Amended by P.L.234-2005, SEC.103.

IC 31-33-3-5

Recommendation to the department of child services

Sec. 5. The community child protection team may recommend to the department that a petition be filed in the juvenile court on behalf of the subject child if the team believes this would best serve the interests of the child.

As added by P.L.1-1997, SEC.16. Amended by P.L.234-2005, SEC.104; P.L.162-2011, SEC.43.

IC 31-33-3-6

Review of child abuse and neglect cases and complaints

Sec. 6. The community child protection team may receive and review:

(1) any case that the department has been involved in within the county where the team presides; and

(2) complaints regarding child abuse and neglect cases that are brought to the team by a person or an agency.

As added by P.L.1-1997, SEC.16. Amended by P.L.234-2005, SEC.105.

IC 31-33-3-7

Periodic reports

Sec. 7. (a) The community child protection team shall prepare a periodic report regarding the child abuse and neglect reports and complaints that the team reviews under this chapter.

(b) The periodic report may include the following information:

(1) The number of complaints under section 6 of this chapter that the team receives and reviews each month.

(2) A description of the child abuse and neglect reports that the team reviews each month, including the following information:

(A) The scope and manner of the interviewing process during the child abuse or neglect assessment.

(B) The timeliness of the assessment.

(C) The number of children removed from the home.

(D) The types of services offered.

(E) The number of child abuse and neglect cases filed with a court.

(F) The reasons that certain child abuse and neglect cases are not filed with a court.

As added by P.L.1-1997, SEC.16. Amended by P.L.146-2008, SEC.575; P.L.131-2009, SEC.39.

IC 31-33-3-8

Confidentiality of matters reviewed

Sec. 8. The members of the community child protection team are bound by all applicable laws regarding the confidentiality of matters reviewed by the team.

As added by P.L.1-1997, SEC.16.

IC 31-33-4

Chapter 4. Local Plan for Provision of Child Protection Services

IC 31-33-4-1

Preparation and submission of local plan

Sec. 1. Before February 2 of each even-numbered year, each regional services council, after a public hearing, shall:

(1) prepare a local plan for the provision of child protection services; and

(2) submit the plan to:

(A) the director;

(B) each juvenile court within the region;

(C) the community child protection team as provided for in IC 31-33-3-1; and

(D) appropriate public or voluntary agencies, including organizations for the prevention of child abuse or neglect.

As added by P.L.1-1997, SEC.16. Amended by P.L.146-2008, SEC.576.

IC 31-33-4-2

Description of implementation

Sec. 2. The local plan must describe the implementation of this article in the region by the department, including the following:

- (1) Organization.
- (2) Staffing.
- (3) Mode of operations.
- (4) Financing of the child protection services.
- (5) The provisions made for the purchase of service and interagency relations.

As added by P.L.1-1997, SEC.16. Amended by P.L.234-2005, SEC.106; P.L.145-2006, SEC.279; P.L.146-2008, SEC.577.

IC 31-33-4-3

Certification

Sec. 3. (a) Not later than sixty (60) days after receiving the plan, the director shall certify whether the local plan fulfills the purposes and meets the requirements of this article.

(b) If the director certifies that the local plan does not fulfill the purposes and meet the requirements of this article, the director shall:

- (1) state the reasons for the decision;
- (2) make revisions to the plan that the director determines are necessary to meet the requirements and fulfill the purposes of this article; and
- (3) approve and certify the revised plan as the local plan required by this chapter.

As added by P.L.1-1997, SEC.16. Amended by P.L.145-2006, SEC.280.

IC 31-33-4-4

Repealed

(Repealed by P.L.146-2008, SEC.806.)

IC 31-33-5

Chapter 5. Duty to Report Child Abuse or Neglect

IC 31-33-5-1

Duty to make report

Sec. 1. In addition to any other duty to report arising under this article, an individual who has reason to believe that a child is a victim of child abuse or neglect shall make a report as required by this article.

As added by P.L.1-1997, SEC.16.

IC 31-33-5-2

Notification of individual in charge of institution, school, facility, or agency; report

Sec. 2. (a) If an individual is required to make a report under this article in the individual's

capacity as a member of the staff of a medical or other public or private institution, school, facility, or agency, the individual shall immediately notify the individual in charge of the institution, school, facility, or agency or the designated agent of the individual in charge of the institution, school, facility, or agency.

(b) An individual notified under subsection (a) shall report or cause a report to be made.

As added by P.L.1-1997, SEC.16.

IC 31-33-5-3

Effect of compliance on individual's own duty to report

Sec. 3. This chapter does not relieve an individual of the obligation to report on the individual's own behalf, unless a report has already been made to the best of the individual's belief.

As added by P.L.1-1997, SEC.16.

IC 31-33-5-4

Immediate oral report to department of child services or law enforcement agency

Sec. 4. A person who has a duty under this chapter to report that a child may be a victim of child abuse or neglect shall immediately make an oral report to:

(1) the department; or

(2) the local law enforcement agency.

As added by P.L.1-1997, SEC.16. Amended by P.L.234-2005, SEC.107.

IC 31-33-6

Chapter 6. Immunity of Persons Who Report Child Abuse or Neglect

IC 31-33-6-1

Immunity from civil or criminal liability

Sec. 1. Except as provided in section 2 of this chapter, a person, other than a person accused of child abuse or neglect, who:

(1) makes or causes to be made a report of a child who may be a victim of child abuse or neglect;

(2) is a health care provider and detains a child for purposes of causing photographs, x-rays, or a physical medical examination to be made under IC 31-33-10;

(3) makes any other report of a child who may be a victim of child abuse and neglect; or

(4) participates in any judicial proceeding or other proceeding:

(A) resulting from a report that a child may be a victim of child abuse or neglect; or

(B) relating to the subject matter of the report;

is immune from any civil or criminal liability that might otherwise be imposed because of such actions.

As added by P.L.1-1997, SEC.16.

IC 31-33-6-2

Exception for malice or bad faith

Sec. 2. Immunity does not attach for a person who has acted maliciously or in bad faith.
As added by P.L.1-1997, SEC.16.

IC 31-33-6-3

Presumption of good faith

Sec. 3. A person making a report that a child may be a victim of child abuse or neglect or assisting in any requirement of this article is presumed to have acted in good faith.
As added by P.L.1-1997, SEC.16.

IC 31-33-7

Chapter 7. Receipt of Reports of Suspected Child Abuse or Neglect

IC 31-33-7-1

Arrangement for receipt of reports

Sec. 1. The department shall arrange for receipt, on a twenty-four (24) hour, seven (7) day per week basis, of all reports under this article of suspected child abuse or neglect.
As added by P.L.1-1997, SEC.16. Amended by P.L.234-2005, SEC.108.

IC 31-33-7-2

Standardized phone access system

Sec. 2. To carry out section 1 of this chapter, the department must use a phone access system for receiving calls that is standardized among all counties. The department shall adopt rules under IC 4-22-2 for the administration of this section.
As added by P.L.1-1997, SEC.16. Amended by P.L.234-2005, SEC.109.

IC 31-33-7-3

Child abuse hotline

Sec. 3. The department shall cause to be inserted in each local telephone directory in the county a listing of the child abuse hotline's telephone number under the name "child abuse hotline". The child abuse hotline number under this section must be included with the other emergency numbers listed in the directory.
As added by P.L.1-1997, SEC.16. Amended by P.L.234-2005, SEC.110.

IC 31-33-7-4

Written report; contents

Sec. 4. (a) The department shall make a written report of a child who may be a victim of child abuse or neglect not later than forty-eight (48) hours after receipt of the oral report required of individuals by IC 31-33-5-4.

(b) Written reports under this section must be made on forms supplied by the administrator. The written reports must include, if known, the following information:

(1) The names and addresses of the following:

(A) The child.

(B) The child's parents, guardian, custodian, or other person responsible for the child's care.

(2) The child's age and sex.

(3) The nature and apparent extent of the child's injuries, abuse, or neglect, including any evidence of prior:

(A) injuries of the child; or

(B) abuse or neglect of the child or the child's siblings.

(4) The name of the person allegedly responsible for causing the injury, abuse, or neglect.

(5) The source of the report.

(6) The person making the report and where the person can be reached.

(7) The actions taken by the reporting source, including the following:

(A) Taking of photographs and x-rays.

(B) Removal or keeping of the child.

(C) Notifying the coroner.

(8) The written documentation required by IC 31-34-2-3 if a child was taken into custody without a court order.

(9) Any other information that:

(A) the director requires by rule; or

(B) the person making the report believes might be helpful.

As added by P.L.1-1997, SEC.16. Amended by P.L.234-2005, SEC.111.

IC 31-33-7-5

Written report; copies made available to law enforcement agencies, prosecuting attorney, and coroner

Sec. 5. A copy of the written report of the department shall immediately be made available to:

(1) the appropriate law enforcement agency;

(2) the prosecuting attorney; and

(3) in a case involving death, the coroner for the coroner's consideration.

As added by P.L.1-1997, SEC.16. Amended by P.L.234-2005, SEC.112.

IC 31-33-7-6

Coroner's investigation and report

Sec. 6. Upon receiving a written report under section 5(3) of this chapter, the coroner shall:

(1) accept a report for investigation; and

(2) report the coroner's findings to:

(A) the appropriate law enforcement agency;

(B) the prosecuting attorney;

(C) the department; and

(D) the hospital if the institution making the report is a hospital.

As added by P.L.1-1997, SEC.16. Amended by P.L.234-2005, SEC.113.

IC 31-33-7-6.5

Repealed

(Repealed by P.L.48-2012, SEC.38.)

IC 31-33-7-7

Law enforcement agency investigation and communication of information

Sec. 7. (a) When a law enforcement agency receives an initial report under IC 31-33-5-4 that a child may be a victim of child abuse or neglect, the law enforcement agency shall:

(1) immediately communicate the report to the department, whether or not the law enforcement agency has reason to believe there exists an imminent danger to the child's health or welfare; and

(2) conduct an immediate, onsite assessment of the report along with the department whenever the law enforcement agency has reason to believe that an offense has been committed.

(b) In all cases, the law enforcement agency shall forward any information, including copies of assessment reports, on incidents of cases in which a child may be a victim of child abuse or neglect, whether or not obtained under this article, to:

(1) the department; and

(2) the juvenile court under IC 31-34-7.

As added by P.L.1-1997, SEC.16. Amended by P.L.234-2005, SEC.115; P.L.131-2009, SEC.41.

IC 31-33-7-8

Reports after initiation of assessment or investigation; contents; confidentiality

Sec. 8. (a) This section applies if the department receives a report of suspected child abuse or neglect from:

(1) a hospital;

(2) a community mental health center;

(3) a managed care provider (as defined in IC 12-7-2-127(b));

(4) a referring physician;

(5) a dentist;

(6) a licensed psychologist;

(7) a school;

(8) a child caring institution licensed under IC 31-27;

(9) a group home licensed under IC 31-27 or IC 12-28-4;

(10) a secure private facility; or

(11) a child placing agency (as defined in IC 31-9-2-17.5).

(b) Not later than thirty (30) days after the date the department initiates an assessment or investigation of a report of suspected child abuse or neglect from a person described in subsection (a), the department shall send a report to:

- (1) the administrator of the hospital;
- (2) the community mental health center;
- (3) the managed care provider;
- (4) the referring physician;
- (5) the dentist;
- (6) the principal of the school;
- (7) a licensed psychologist;
- (8) a child caring institution licensed under IC 31-27;
- (9) a group home licensed under IC 31-27 or IC 12-28-4;
- (10) a secure private facility; or
- (11) a child placing agency (as defined in IC 31-9-2-17.5).

The report must contain the items listed in subsection (d) that are known at the time the report is sent.

(c) The administrator, director, referring physician, dentist, licensed psychologist, or principal may appoint a designee to receive the report.

(d) A report made by the department under this section must contain the following information:

- (1) The name of the alleged victim of child abuse or neglect.
- (2) The name of the alleged perpetrator and the alleged perpetrator's relationship to the alleged victim.
- (3) Whether the assessment is closed.
- (4) Whether the department has made an assessment of the case and has not taken any further action.
- (5) The caseworker's name and telephone number.
- (6) The date the report is prepared.
- (7) Other information that the department may prescribe.

(e) A report made under this section:

- (1) is confidential; and
- (2) may be made available only to:
 - (A) the agencies named in this section; and
 - (B) the persons and agencies listed in IC 31-33-18-2.

As added by P.L.1-1997, SEC.16. Amended by P.L.234-2005, SEC.116; P.L.131-2009, SEC.42; P.L.162-2011, SEC.44.

Chapter 8. Investigation of Reports of Suspected Child Abuse or Neglect

IC 31-33-8-1

Investigations by the department of child services; time of initiation; investigations of child care ministries

Sec. 1. (a) The department shall initiate an appropriately thorough child protection assessment of every report of known or suspected child abuse or neglect the department receives, whether in accordance with this article or otherwise.

(b) If the department believes that a child is in imminent danger of serious bodily harm, the department shall initiate an onsite assessment immediately, but not later than one (1) hour, after receiving the report.

(c) If the report alleges a child may be a victim of child abuse, the assessment shall be initiated immediately, but not later than twenty-four (24) hours after receipt of the report.

(d) If reports of child neglect are received, the assessment shall be initiated within a reasonably prompt time, but not later than five (5) days, with the primary consideration being the well-being of the child who is the subject of the report.

(e) If the report alleges that a child lives with a parent, guardian, or custodian who is married to or lives with a person who:

(1) has been convicted of:

(A) neglect of a dependent under IC 35-46-1-4; or

(B) a battery offense under IC 35-42-4; or

(2) is required to register as a sex or violent offender under IC 11-8-8;

the department shall initiate an assessment within a reasonably prompt time, but not later than five (5) days after the department receives the report, with the primary consideration being the well-being of the child who is the subject of the report.

(f) If the safety or well-being of a child appears to be endangered or the facts otherwise warrant, the assessment shall be initiated regardless of the time of day.

(g) If a report alleges abuse or neglect and involves a child care ministry that is exempt from licensure under IC 12-17.2-6, the department and the appropriate law enforcement agency shall jointly conduct an investigation. The investigation shall be conducted under the requirements of this section and section 2(b) of this chapter.

As added by P.L.1-1997, SEC.16. Amended by P.L.234-2005, SEC.117; P.L.124-2007, SEC.10; P.L.131-2009, SEC.43.

IC 31-33-8-2

Investigations by law enforcement agencies

Sec. 2. (a) Upon the receipt of each report under this chapter of known or suspected child abuse, the department shall contact the law enforcement agency in the appropriate jurisdiction.

(b) The law enforcement agency, with the department, shall conduct an immediate onsite investigation of the report if the law enforcement agency has reason to believe that an offense has been committed. The law enforcement agency shall investigate the alleged child abuse or neglect under this chapter in the same manner that the law enforcement agency conducts any other criminal investigation.

As added by P.L.1-1997, SEC.16. Amended by P.L.234-2005, SEC.118.

IC 31-33-8-3

Photographs and x-rays

Sec. 3. (a) Except as provided in subsection (b), the department shall:

(1) cause color photographs to be taken of the areas of trauma visible on a child who is subject to a report; and

(2) if medically indicated, cause a radiological examination of the child to be performed.

(b) If the law enforcement agency participates in the assessment, the law enforcement agency shall cause the color photographs to be taken as provided by this section.

(c) The department shall reimburse the expenses of the photographs and x-rays.

As added by P.L.1-1997, SEC.16. Amended by P.L.234-2005, SEC.119; P.L.131-2009, SEC.44.

IC 31-33-8-4

Notice to prosecuting attorney of reports involving child's death

Sec. 4. The law enforcement agency shall:

(1) give telephone notice; and

(2) immediately forward a copy;

of reports made under this article that involve the death of a child to the appropriate prosecuting attorney.

As added by P.L.1-1997, SEC.16.

IC 31-33-8-5

Forwarding copies of reports to prosecuting attorney

Sec. 5. The department shall immediately forward a copy of all reports made under this article to the appropriate prosecuting attorney if the prosecuting attorney has made a prior request to the service in writing for the copies.

As added by P.L.1-1997, SEC.16. Amended by P.L.234-2005, SEC.120.

IC 31-33-8-6

Investigatory duties of department of child services; purpose

Sec. 6. The department shall promptly make a thorough assessment upon either the oral or written report. The primary purpose of the assessment is the protection of the child.

As added by P.L.1-1997, SEC.16. Amended by P.L.234-2005, SEC.121; P.L.131-2009, SEC.45.

IC 31-33-8-7

Scope of assessment by department of child services; order for access to home, school, or other place, or for mental or physical examinations; petition to interview child; order; requirements

Sec. 7. (a) The department's assessment, to the extent that is reasonably possible, must include the following:

- (1) The nature, extent, and cause of the known or suspected child abuse or neglect.
- (2) The identity of the person allegedly responsible for the child abuse or neglect.
- (3) The names and conditions of other children in the home.
- (4) An evaluation of the parent, guardian, custodian or person responsible for the care of the child.

(5) The home environment and the relationship of the child to the parent, guardian, or custodian or other persons responsible for the child's care.

(6) All other data considered pertinent.

(b) The assessment may include the following:

- (1) A visit to the child's home.
- (2) An interview with the subject child.
- (3) A physical, psychological, or psychiatric examination of any child in the home.

(c) If:

(1) admission to the home, the school, or any other place that the child may be; or
(2) permission of the parent, guardian, custodian, or other persons responsible for the child for the physical, psychological, or psychiatric examination;
under subsection (b) cannot be obtained, the juvenile court, upon good cause shown, shall follow the procedures under IC 31-32-12.

(d) If a custodial parent, a guardian, or a custodian of a child refuses to allow the department to interview the child after the caseworker has attempted to obtain the consent of the custodial parent, guardian, or custodian to interview the child, the department may petition a court to order the custodial parent, guardian, or custodian to make the child available to be interviewed by the caseworker.

(e) If the court finds that:

- (1) a custodial parent, a guardian, or a custodian has been informed of the hearing on a petition described under subsection (d); and
- (2) the department has made reasonable and unsuccessful efforts to obtain the consent of the

custodial parent, guardian, or custodian to interview the child; the court shall specify in the order the efforts the department made to obtain the consent of the custodial parent, guardian, or custodian and may grant the motion to interview the child, either with or without the custodial parent, guardian, or custodian being present.

As added by P.L.1-1997, SEC.16. Amended by P.L.234-2005, SEC.122; P.L.131-2009, SEC.46; P.L.162-2011, SEC.45.

IC 31-33-8-8

Order for child's immediate removal; preparation of investigative report

Sec. 8. (a) If, before the assessment is complete, the opinion of the law enforcement agency or the department is that immediate removal is necessary to protect the child from further abuse or neglect, the juvenile court may issue an order under IC 31-32-13.

(b) The department shall make a complete written report of the assessment.

(c) If a law enforcement agency participates in the assessment, the law enforcement agency shall also make a complete written report of the assessment.

As added by P.L.1-1997, SEC.16. Amended by P.L.234-2005, SEC.123; P.L.131-2009, SEC.47.

IC 31-33-8-9

Provision of copies of investigative report by department of child services

Sec. 9. (a) The department's report under section 8 of this chapter shall be made available to:

- (1) the appropriate court;
- (2) the prosecuting attorney; or
- (3) the appropriate law enforcement agency;

upon request.

(b) If child abuse or neglect is substantiated after an assessment is conducted under section 7 of this chapter, the department shall forward its report to the office of the prosecuting attorney having jurisdiction in the county in which the alleged child abuse or neglect occurred.

(c) If the assessment substantiates a finding of child abuse or neglect as determined by the department, a report shall be sent to the coordinator of the community child protection team under IC 31-33-3.

As added by P.L.1-1997, SEC.16. Amended by P.L.35-1998, SEC.4; P.L.234-2005, SEC.124; P.L.131-2009, SEC.48.

IC 31-33-8-10

Provision of information and copies of investigative report by law enforcement agency

Sec. 10. If the law enforcement agency participates in the child abuse or neglect assessment, the law enforcement agency shall forward all information, including copies of an assessment report under section 7 of this chapter, on an incident in which a child may be a victim of alleged child abuse or neglect, whether obtained under this article or not, to the office of the prosecuting

attorney.

As added by P.L.1-1997, SEC.16. Amended by P.L.131-2009, SEC.49.

IC 31-33-8-11

Law enforcement agency's duty to release information to department of child services

Sec. 11. In all cases, the law enforcement agency shall release information on an incident in which a child may be a victim of alleged child abuse or neglect, whether obtained under this article or not, to the department.

As added by P.L.1-1997, SEC.16. Amended by P.L.234-2005, SEC.125.

IC 31-33-8-12

Classifying reports as substantiated or unsubstantiated

Sec. 12. Upon completion of an assessment, the department shall classify reports as substantiated or unsubstantiated.

As added by P.L.1-1997, SEC.16. Amended by P.L.70-2004, SEC.13; P.L.234-2005, SEC.126; P.L.131-2009, SEC.50.

IC 31-33-8-13

Court findings to be entered in the child protection index

Sec. 13. Whenever a court finds that a child is a child in need of services on the basis of a child abuse or neglect report classified as substantiated under section 12 of this chapter, the department shall enter into the child protection index established under IC 31-33-26-2 identifiable information concerning the court's judgment.

As added by P.L.1-1997, SEC.16. Amended by P.L.234-2005, SEC.127; P.L.138-2007, SEC.65.

IC 31-33-8-14

Repealed

(Repealed by P.L.138-2007, SEC.93.)

IC 31-33-9

Chapter 9. Designation of Public or Private Agencies to Investigate Reports of Abuse or Neglect Involving a Child Under the Care of a Public or Private Institution

IC 31-33-9-1

Written protocol or agreement designating agency primarily responsible for investigation

Sec. 1. (a) Through a written protocol or agreement, the department shall designate the public or private agencies primarily responsible for investigating reports involving a child who:

- (1) may be a victim of child abuse or neglect; and
- (2) is under the care of a public or private institution.

(b) The designated agency must be different from and separately administered from the agency involved in the alleged act or omission. Subject to this limitation, the agency:

- (1) may be:
 - (A) the department; or
 - (B) a law enforcement agency; and
- (2) may not be the office of the prosecuting attorney.

As added by P.L.1-1997, SEC.16. Amended by P.L.234-2005, SEC.128.

IC 31-33-9-2

Terms or conditions of protocol or agreement

Sec. 2. The protocol or agreement must describe the specific terms or conditions of the designation, including the following:

- (1) The manner in which reports of a child who may be a victim of child abuse or neglect and who is under the care of a public or private institution will be received.
- (2) The manner in which the reports will be investigated.
- (3) The remedial action that will be taken.
- (4) The manner in which the department will be kept fully informed on the progress, findings, and disposition of the investigation.

As added by P.L.1-1997, SEC.16. Amended by P.L.234-2005, SEC.129.

IC 31-33-9-3

Purchase of services of public or private agency

Sec. 3. To fulfill the purposes of this chapter, the department may purchase the services of the public or private agency designated to investigate reports of child abuse or neglect.

As added by P.L.1-1997, SEC.16. Amended by P.L.234-2005, SEC.130.

IC 31-33-10

Chapter 10. Duty of Health Care Provider to Examine, Photograph, and X-ray Child Who Is Subject of Child Abuse or Neglect Report

IC 31-33-10-1

Duty to photograph, x-ray, and physically examine trauma visible on child

Sec. 1. (a) A person who:

- (1) is required to report cases of known or suspected child abuse or neglect; and
 - (2) is also a health care provider or a person in charge of a hospital or similar medical institution treating the child;
- shall cause photographs to be taken of the areas of trauma visible on the child who is the subject of a report.

(b) If medically indicated, a physician may cause a radiological examination or a physical medical examination, or both, of the child to be performed.

As added by P.L.1-1997, SEC.16.

IC 31-33-10-2

Photographs, x-rays, and physical medical examinations; reimbursement of costs

Sec. 2. The department shall reimburse the reasonable cost of photographs, x-rays, or physical medical examinations made under this chapter.

As added by P.L.1-1997, SEC.16. Amended by P.L.234-2005, SEC.131.

IC 31-33-10-3

Photographs, x-rays, and physical medical examinations; delivery to department of child services; notice of existence

Sec. 3. All photographs taken and a summary of x-rays and other medical care shall be sent to the department and, upon request, to a law enforcement agency that investigates the alleged child abuse or neglect, at the time the written report is sent or as soon thereafter as possible. The department shall give notice of the existence of photographs, x-rays, and physical medical examination reports in accordance with IC 31-25-2-12.

As added by P.L.1-1997, SEC.16. Amended by P.L.197-1999, SEC.4; P.L.234-2005, SEC.132; P.L.145-2006, SEC.281

IC 31-33-11

Chapter 11. Duty of Hospital Not to Release Child Who Is Subject of Child Abuse or Neglect Report

IC 31-33-11-1

Conditions for release of child under investigation for abuse or neglect; expenses of extended hospital stay

Sec. 1. (a) Whenever:

- (1) a child is subject to assessment by the department for reported child abuse or neglect;
- (2) the child is a patient in a hospital; and
- (3) the hospital has reported or has been informed of the report and assessment;

the hospital may not release the child to the child's parent, guardian, custodian, or to a court approved placement until the hospital receives authorization or a copy of a court order from the department indicating that the child may be released to the child's parent, guardian, custodian, or court approved placement.

(b) If the authorization that is granted under this section is verbal, the department shall send a letter to the hospital confirming that the department has granted authorization for the child's release.

(c) The individual or third party payor responsible financially for the hospital stay of the child remains responsible for any extended stay under this section. If no party is responsible for the extended stay, the department shall pay the expenses of the extended hospital stay.

As added by P.L.1-1997, SEC.16. Amended by P.L.234-2005, SEC.133; P.L.131-2009, SEC.51.

IC 31-33-13

Repealed

(Repealed by P.L.138-2007, SEC.93.)

IC 31-33-15

Chapter 15. Appointment of Guardian Ad Litem or Court Appointed Special Advocate

IC 31-33-15-1

Appointment

Sec. 1. In every judicial proceeding under this article, the court may appoint for the child a guardian ad litem or a court appointed special advocate, or both, under IC 31-32-3.

As added by P.L.1-1997, SEC.16.

IC 31-33-15-2

Access to reports

Sec. 2. The guardian ad litem or the court appointed special advocate, or both, shall be given access under IC 31-39 to:

(1) all reports relevant to the case; and

(2) any reports of examinations of the child's parents or other person responsible for the child's welfare.

As added by P.L.1-1997, SEC.16.

IC 31-33-15-3

Costs of services of guardian ad litem

Sec. 3. Any costs related to the services of a guardian ad litem shall be paid according to IC 31-40.

As added by P.L.1-1997, SEC.16.

IC 31-33-16

Chapter 16. Review of Status of Child by Juvenile Court

IC 31-33-16-1

Review of status of child removed from family

Sec. 1. The juvenile court shall review the status of a child removed from the child's family under this article (or IC 31-6-11 before its repeal) according to IC 31-34-21.

As added by P.L.1-1997, SEC.16.

IC 31-33-17

Repealed

(Repealed by P.L.138-2007, SEC.93.)

IC 31-33-18

Chapter 18. Disclosure of Reports; Confidentiality Requirements

IC 31-33-18-1

Confidentiality; exceptions

Sec. 1. (a) Except as provided in section 1.5 of this chapter, the following are confidential:

(1) Reports made under this article (or IC 31-6-11 before its repeal).

(2) Any other information obtained, reports written, or photographs taken concerning the reports in the possession of:

(A) the division of family resources;

(B) the local office;

(C) the department; or

(D) the department of child services ombudsman established by IC 4-13-19-3.

(b) Except as provided in section 1.5 of this chapter, all records held by:

(1) the division of family resources;

(2) a local office;

(3) the department;

(4) a local child fatality review team established under IC 31-33-24;

(5) the statewide child fatality review committee established under IC 31-33-25; or

(6) the department of child services ombudsman established by IC 4-13-19-3;

regarding the death of a child determined to be a result of abuse, abandonment, or neglect are confidential and may not be disclosed.

As added by P.L.1-1997, SEC.16. Amended by P.L.70-2004, SEC.14; P.L.234-2005, SEC.153; P.L.145-2006, SEC.283; P.L.182-2009(ss), SEC.378; P.L.128-2012, SEC.153.

IC 31-33-18-1.5

Written findings; copies to the department of child services; certain records held by governmental entities not confidential if redacted; procedure for redacting records

Sec. 1.5. (a) This section applies to records held by:

(1) a local office;

(2) the department;

(3) a local child fatality review team established under IC 31-33-24;

(4) the statewide child fatality review committee established under IC 31-33-25; or

(5) the department of child services ombudsman established by IC 4-13-19-3;

regarding a child whose death or near fatality may have been the result of abuse, abandonment, or neglect.

(b) For purposes of subsection (a), a child's death or near fatality may have been the result of

abuse, abandonment, or neglect if:

(1) an entity described in subsection (a) determines that the child's death or near fatality is the result of abuse, abandonment, or neglect; or

(2) a prosecuting attorney files:

(A) an indictment or information; or

(B) a complaint alleging the commission of a delinquent act;

that, if proven, would cause a reasonable person to believe that the child's death or near fatality may have been the result of abuse, abandonment, or neglect.

Upon the request of any person, or upon its own motion, the court exercising juvenile jurisdiction in the county in which the child's death or near fatality occurred shall determine whether the allegations contained in the indictment, information, or complaint described in subdivision (2), if proven, would cause a reasonable person to believe that the child's death or near fatality may have been the result of abuse, abandonment, or neglect.

(c) If the juvenile court finds that the child's death or near fatality was the result of abuse, abandonment, or neglect, the court shall make written findings and provide a copy of the findings and the indictment, information, or complaint described under subsection (b)(2) to the department.

(d) As used in this section:

(1) "case" means:

(A) any intake report generated by the department;

(B) any investigation or assessment conducted by the department; or

(C) ongoing involvement between the department and a child or family that is the result of:

(i) a program of informal adjustment; or

(ii) a child in need of services action;

for which related records and documents have not been expunged as required by law or by a court at the time the department is notified of a fatality or near fatality;

(2) "contact" means in person communication about a case in which:

(A) the child who is the victim of a fatality or near fatality is alleged to be a victim; or

(B) the perpetrator of the fatality or near fatality is alleged to be the perpetrator;

(3) "identifying information" means information that identifies an individual, including an individual's:

(A) name, address, date of birth, occupation, place of employment, and telephone number;

(B) employer identification number, mother's maiden name, Social Security number, or any identification number issued by a governmental entity;

(C) unique biometric data, including the individual's fingerprint, voice print, or retina or iris image;

(D) unique electronic identification number, address, or routing code;

(E) telecommunication identifying information; or

(F) telecommunication access device, including a card, a plate, a code, an account number, a personal identification number, an electronic serial number, a mobile identification number, or another telecommunications service or device or means of account access; and

(4) "near fatality" has the meaning set forth in 42 U.S.C. 5106a.

(e) Unless information in a record is otherwise confidential under state or federal law, a record described in subsection (a) that has been redacted in accordance with this section is not confidential and may be disclosed to any person who requests the record. The person requesting the record may be required to pay the reasonable expenses of copying the record.

(f) When a person requests a record described in subsection (a), the entity having control of the record shall immediately transmit a copy of the record to the court exercising juvenile jurisdiction in the county in which the death or near fatality of the child occurred. However, if the court requests that the entity having control of a record transmit the original record, the entity shall transmit the original record.

(g) Upon receipt of the record described in subsection (a), the court shall, within thirty (30) days, redact the record to exclude:

(1) identifying information described in subsection (d)(3)(B) through (d)(3)(F) of a person; and

(2) all identifying information of a child less than eighteen (18) years of age.

(h) The court shall disclose the record redacted in accordance with subsection (g) to any person who requests the record, if the person has paid:

(1) to the entity having control of the record, the reasonable expenses of copying under IC 5-14-3-8; and

(2) to the court, the reasonable expenses of copying the record.

(i) The data and information in a record disclosed under this section must include the following:

(1) A summary of the report of abuse or neglect and a factual description of the contents of the report.

(2) The date of birth and gender of the child.

(3) The cause of the fatality or near fatality, if the cause has been determined.

(4) Whether the department had any contact with the child or the perpetrator before the fatality or near fatality, and, if the department had contact, the following:

(A) The frequency of the contact with the child or the perpetrator before the fatality or near fatality and the date on which the last contact occurred before the fatality or near fatality.

(B) A summary of the status of the child's case at the time of the fatality or near fatality, including:

(i) whether the child's case was closed by the department before the fatality or near fatality; and

(ii) if the child's case was closed as described under item (i), the date of closure and the reasons that the case was closed.

(j) The court's determination under subsection (g) that certain identifying information or other

information is not relevant to establishing the facts and circumstances leading to the death or near fatality of a child is not admissible in a criminal proceeding or civil action.

As added by P.L.70-2004, SEC.15. Amended by P.L.234-2005, SEC.154; P.L.145-2006, SEC.284; P.L.131-2009, SEC.52; P.L.182-2009(ss), SEC.379; P.L.162-2011, SEC.46; P.L.128-2012, SEC.154.

IC 31-33-18-2

Disclosure of unredacted material to certain persons

Sec. 2. The reports and other material described in section 1(a) of this chapter and the unredacted reports and other material described in section 1(b) of this chapter shall be made available only to the following:

- (1) Persons authorized by this article.
- (2) A legally mandated public or private child protective agency investigating a report of child abuse or neglect or treating a child or family that is the subject of a report or record.
- (3) A police or other law enforcement agency, prosecuting attorney, or coroner in the case of the death of a child who is investigating a report of a child who may be a victim of child abuse or neglect.
- (4) A physician who has before the physician a child whom the physician reasonably suspects may be a victim of child abuse or neglect.
- (5) An individual legally authorized to place a child in protective custody if:
 - (A) the individual has before the individual a child whom the individual reasonably suspects may be a victim of abuse or neglect; and
 - (B) the individual requires the information in the report or record to determine whether to place the child in protective custody.
- (6) An agency having the legal responsibility or authorization to care for, treat, or supervise a child who is the subject of a report or record or a parent, guardian, custodian, or other person who is responsible for the child's welfare.
- (7) An individual named in the report or record who is alleged to be abused or neglected or, if the individual named in the report is a child or is otherwise incompetent, the individual's guardian ad litem or the individual's court appointed special advocate, or both.
- (8) Each parent, guardian, custodian, or other person responsible for the welfare of a child named in a report or record and an attorney of the person described under this subdivision, with protection for the identity of reporters and other appropriate individuals.
- (9) A court, for redaction of the record in accordance with section 1.5 of this chapter, or upon the court's finding that access to the records may be necessary for determination of an issue before the court. However, except for disclosure of a redacted record in accordance with section 1.5 of this chapter, access is limited to in camera inspection unless the court determines that public disclosure of the information contained in the records is necessary for the resolution of an issue then pending before the court.
- (10) A grand jury upon the grand jury's determination that access to the records is necessary in the conduct of the grand jury's official business.

(11) An appropriate state or local official responsible for child protection services or legislation carrying out the official's official functions.

(12) A foster care review board established by a juvenile court under IC 31-34-21-9 (or IC 31-6-4-19 before its repeal) upon the court's determination that access to the records is necessary to enable the foster care review board to carry out the board's purpose under IC 31-34-21.

(13) The community child protection team appointed under IC 31-33-3 (or IC 31-6-11-14 before its repeal), upon request, to enable the team to carry out the team's purpose under IC 31-33-3.

(14) A person about whom a report has been made, with protection for the identity of:

(A) any person reporting known or suspected child abuse or neglect; and

(B) any other person if the person or agency making the information available finds that disclosure of the information would be likely to endanger the life or safety of the person.

(15) An employee of the department, a caseworker, or a juvenile probation officer conducting a criminal history check under IC 31-26-5, IC 31-34, or IC 31-37 to determine the appropriateness of an out-of-home placement for a:

(A) child at imminent risk of placement;

(B) child in need of services; or

(C) delinquent child.

The results of a criminal history check conducted under this subdivision must be disclosed to a court determining the placement of a child described in clauses (A) through (C).

(16) A local child fatality review team established under IC 31-33-24-6.

(17) The statewide child fatality review committee established by IC 31-33-25-6.

(18) The department.

(19) The division of family resources, if the investigation report:

(A) is classified as substantiated; and

(B) concerns:

(i) an applicant for a license to operate;

(ii) a person licensed to operate;

(iii) an employee of; or

(iv) a volunteer providing services at;

a child care center licensed under IC 12-17.2-4 or a child care home licensed under IC 12-17.2-5.

(20) A citizen review panel established under IC 31-25-2-20.4.

(21) The department of child services ombudsman established by IC 4-13-19-3.

(22) The state superintendent of public instruction with protection for the identity of:

(A) any person reporting known or suspected child abuse or neglect; and

(B) any other person if the person or agency making the information available finds that disclosure of the information would be likely to endanger the life or safety of the person.

As added by P.L.1-1997, SEC.16. Amended by P.L.70-2004, SEC.16; P.L.234-2005, SEC.155;

P.L.145-2006, SEC.285; P.L.146-2006, SEC.43; P.L.138-2007, SEC.66; P.L.182-2009(ss), SEC.380; P.L.48-2012, SEC.39.

IC 31-33-18-3

Disclosure to qualified researchers

Sec. 3. (a) Section 2 of this chapter does not prevent the local office or the department from disclosing to a qualified individual engaged in a good faith research project either:

(1) information of a general nature, including the incidents of reported child abuse or neglect or other statistical or social data used in connection with studies, reports, or surveys, and information related to their function and activities; or

(2) information relating to case histories of child abuse or neglect if:

(A) the information disclosed does not identify or reasonably tend to identify the persons involved; and

(B) the information is not a subject of pending litigation.

(b) To implement this section, the department shall adopt under IC 4-22-2 rules to govern the dissemination of information to qualifying researchers.

As added by P.L.1-1997, SEC.16. Amended by P.L.234-2005, SEC.156; P.L.128-2012, SEC.155.

IC 31-33-18-4

Notice to parent, guardian, or custodian of availability of reports, information, and juvenile court records; release form; copying costs

Sec. 4. (a) Whenever a child abuse or neglect assessment is conducted under this article, the department shall give verbal and written notice to each parent, guardian, or custodian of the child that:

(1) the reports and information described under section 1 of this chapter relating to the child abuse or neglect assessment; and

(2) if the child abuse or neglect allegations are pursued in juvenile court, the juvenile court's records described under IC 31-39; are available upon the request of the parent, guardian, or custodian except as prohibited by federal law.

(b) A parent, guardian, or custodian requesting information under this section may be required to sign a written release form that delineates the information that is requested before the information is made available. However, no other prerequisites for obtaining the information may be placed on the parent, guardian, or custodian except for reasonable copying costs.

As added by P.L.1-1997, SEC.16. Amended by P.L.234-2005, SEC.157; P.L.131-2009, SEC.53.

IC 31-33-18-5

Confidentiality of recordings of calls to child abuse hotline

Sec. 5. (a) An audio recording of a telephone call to the child abuse hotline is confidential and may be released only upon court order.

(b) An audio recording of a report of child abuse or neglect that is the subject of a complaint made to a prosecuting attorney under IC 31-33-22-3 shall be released without a court order to the prosecuting attorney upon written request of the prosecuting attorney.

As added by P.L.48-2012, SEC.40.

IC 31-33-19

Repealed

(Repealed by P.L.138-2007, SEC.93.)

IC 31-33-21

Repealed

(Repealed by P.L.146-2008, SEC.806.)

IC 31-33-22

Chapter 22. Offenses; Access to Unsubstantiated False Reports

IC 31-33-22-1

Failure to make report

Sec. 1. (a) A person who knowingly fails to make a report required by IC 31-33-5-1 commits a Class B misdemeanor.

(b) A person who knowingly fails to make a report required by IC 31-33-5-2 commits a Class B misdemeanor. This penalty is in addition to the penalty imposed by subsection (a).

As added by P.L.1-1997, SEC.16.

IC 31-33-22-2

Obtaining child abuse information under false pretenses; knowingly falsifying records or interfering with an investigation

Sec. 2. (a) An individual who knowingly requests, obtains, or seeks to obtain child abuse or neglect information under false pretenses commits a Class B misdemeanor.

(b) A person who knowingly or intentionally:

(1) falsifies child abuse or neglect information or records; or

(2) obstructs or interferes with a child abuse assessment, including an assessment conducted by a local child fatality review team or the statewide child fatality review committee; commits obstruction of a child abuse assessment, a Class A misdemeanor.

As added by P.L.1-1997, SEC.16. Amended by P.L.70-2004, SEC.17; P.L.131-2009, SEC.54.

IC 31-33-22-3

False reports; criminal and civil liability; notification of prosecuting attorney

Sec. 3. (a) A person who intentionally communicates to:

- (1) a law enforcement agency; or
- (2) the department;

a report of child abuse or neglect knowing the report to be false commits a Class A misdemeanor. However, the offense is a Class D felony if the person has a previous unrelated conviction for making a report of child abuse or neglect knowing the report to be false.

(b) A person who intentionally communicates to:

- (1) a law enforcement agency; or
- (2) the department;

a report of child abuse or neglect knowing the report to be false is liable to the person accused of child abuse or neglect for actual damages. The finder of fact may award punitive damages and attorney's fees in an amount determined by the finder of fact against the person.

(c) The director or the director's designee shall, after review by the department's attorney, notify the prosecuting attorney whenever the director or the director's designee and the department's attorney have reason to believe that a person has violated this section.

(d) A person who:

(1) has reason to believe that the person is a victim of a false report of child abuse or neglect under this section; and

(2) is not named in a pending criminal charge or under assessment relating to the report; may file a complaint with the prosecuting attorney. The prosecuting attorney shall review the relevant child abuse or neglect records of the department and any other relevant evidence.

As added by P.L.1-1997, SEC.16. Amended by P.L.234-2005, SEC.166; P.L.131-2009, SEC.55.

IC 31-33-22-4

Failure to notify of name change

Sec. 4. A person who intentionally violates IC 31-33-17-10 commits a Class B misdemeanor.

As added by P.L.1-1997, SEC.16.

IC 31-33-22-5

Access by accused to false report

Sec. 5. A person who is accused of committing child abuse or neglect is entitled to access to a report relevant to an alleged false accusation filed under this article if a court finds that the report:

(1) is unsubstantiated; and

(2) was intentionally communicated to a law enforcement agency or the department by a person who knew the report was false.

As added by P.L.1-1997, SEC.16. Amended by P.L.234-2005, SEC.167.

IC 31-33-26-2

Establishment and maintenance of child protection index

Sec. 2. The department shall establish and maintain a centralized, computerized child protection index to organize and access data regarding substantiated reports of child abuse and neglect that the department receives from throughout Indiana under this article.

As added by P.L.138-2007, SEC.67.

IC 31-33-26-3

Index components

Sec. 3. In addition to the equipment needed to establish, operate, and maintain the index, the index must include the following components:

(1) Automated risk assessment in which a family case manager or supervisor is able to review a substantiated child abuse or neglect case to determine prior case history during the intake, assessment, and case management processes.

(2) The capability to allow supervisors to monitor child abuse and neglect cases and reports relating to the cases.

(3) The automated production of standard reports to enable the automated compilation of information gathered on forms used by family case managers to report the information and results of child abuse and neglect cases. The index must also provide for the automation of other data for planning and evaluation as determined by the department.

(4) The capability of same day notification and transfer of statistical information to the department regarding new and closed child abuse and neglect cases.

(5) The enabling of child welfare supervisors to review a child abuse or neglect determination at any point after the assessment is initially classified as substantiated abuse or neglect, to confirm the status of the case, and to allow for the consolidated management of cases.

(6) The capability for adjusting the index's programming at a later date if additional reporting requirements occur.

(7) A word processing capability to allow case notes to be recorded with each substantiated child abuse and neglect case.

As added by P.L.138-2007, SEC.67. Amended by P.L.131-2009, SEC.56; P.L.128-2012, SEC.156.

IC 31-33-26-8

Notification after index entry; notice to perpetrators; request for administrative hearing

Sec. 8. (a) This section does not apply to substantiated reports if a court has determined that a child is a child in need of services based on:

(1) a report of child abuse or neglect that names the perpetrator as the individual who committed the child abuse or neglect; or

(2) facts presented to the court at a hearing in a child in need of services case commenced

under IC 31-34 that are consistent with the facts and conclusions stated in the report, if the department approved the substantiated report after the court's determination.

(b) Not later than thirty (30) days after the department enters a substantiated child abuse or neglect report into the index, the department shall notify:

(1) the parent, guardian, or custodian of the child who is named in the report as the victim of the child abuse or neglect; and

(2) any person identified as the perpetrator, if other than the child's parent, guardian, or custodian;

that the department has entered the report into the index.

(c) The department shall state the following in a notice to the perpetrator of a substantiated report under subsection (b):

(1) The report has been classified as substantiated.

(2) The perpetrator may request that a substantiated report be amended or expunged at an administrative hearing if the perpetrator does not agree with the classification of the report unless a court is in the process of making a determination.

(3) The perpetrator's request for an administrative hearing to contest the classification of a substantiated report must be received by the department not more than thirty (30) days after the notice is served on the perpetrator as provided in IC 4-21.5-3-1(b). Time shall be computed as provided in IC 4-21.5-3-2.

(d) If the perpetrator fails to request an administrative hearing within the time specified in subsection (c)(3), the perpetrator named in a substantiated report may request an administrative hearing to contest the classification of the report if the perpetrator demonstrates that the failure to request an administrative hearing was due to excusable neglect or fraud. The Indiana Rules of Civil Procedure provide the standard for excusable neglect or fraud.

As added by P.L.138-2007, SEC.67.

IC 31-33-26-9

Administrative hearings; evidentiary standards; consideration of hearsay; amendment or expungement of reports; confidentiality; decisions provided to the department of education

Sec. 9. (a) Except as provided in sections 11 and 12 of this chapter, the department shall conduct an administrative hearing upon a request made under section 8 of this chapter.

(b) At the administrative hearing, the department must prove by a preponderance of credible evidence that the perpetrator is responsible for the child's abuse or neglect.

(c) During an administrative hearing under this section, the administrative hearing officer shall consider hearsay evidence to be competent evidence and may not exclude hearsay based on the technical rules of evidence. If not objected to, the hearsay evidence may form the basis for an order. However, if the evidence is properly objected to and does not fall within a recognized exception to the hearsay rule, the resulting order may not be based solely upon the hearsay evidence.

(d) If the department fails to carry the burden of proof under subsection (b), the department

shall amend or expunge the report as ordered by the administrative hearing officer within the period provided under section 15 of this chapter.

(e) The department shall maintain the confidentiality of an abuse or a neglect report during the administrative process.

(f) The administrative hearing shall be closed.

(g) The administrative files shall be closed and not disclosed to the public.

(h) The department shall provide a copy of a decision resulting from an administrative hearing under this section to the department of education if:

(1) the alleged perpetrator is licensed by the department of education; or

(2) the incident happened on school property or at a school function.

As added by P.L.138-2007, SEC.67. Amended by P.L.162-2011, SEC.48; P.L.48-2012, SEC.53.

IC 31-33-27

Chapter 27. Expungement of Child Abuse or Neglect Reports

IC 31-33-27-1

"Expunge" or "Expungement"

Sec. 1. As used in this chapter, "expunge" or "expungement" means:

(1) the removal or deletion of all information maintained by the department concerning a report, assessment, or determination under this article relating to an incident or condition of child abuse or neglect; and

(2) the destruction or delivery of the information to a person to whom the information pertains.

As added by P.L.48-2012, SEC.56.

IC 31-33-27-2

"Information"

Sec. 2. As used in this chapter, "information" includes all files and records created or maintained by the department. The term includes the original and copies of documents, correspondence, messages, photographs, videotapes, audio recordings, audiovisual recordings, and any other material contained in electronic, paper, or digital form or in other media.

As added by P.L.48-2012, SEC.56.

IC 31-33-27-3

Expungement of records; retained information; adoption of rules

Sec. 3. (a) The department shall expunge child abuse or neglect information not later than twenty-four (24) years after the date of birth of the youngest child named in the department's assessment report as an alleged victim of child abuse or neglect, if:

(1) the department approved the assessment as unsubstantiated; or

(2) the court in a child in need of services case entered a final judgment based on a finding that child abuse or neglect did not occur.

(b) The department may, upon the request of an interested person, expunge information relating to an unsubstantiated assessment of child abuse or neglect at any time, if the department determines that the probative value of the information does not justify its retention in the records of the department.

(c) This subsection applies to information that is not expunged under subsection (a) or (b). The department may retain information relating to an unsubstantiated assessment of child abuse or neglect in paper or digital form or in other media that is accessible only by department employees with access rights established by the department through policy or rule.

(d) Information that is retained in the records of the department under subsection (c) may be used by the department to facilitate its assessment of a subsequent report concerning the same child or family.

(e) The department may not rely solely on information available under subsection (c) to support substantiation of a later report, if information obtained in the assessment of the later report is otherwise insufficient to support a substantiated determination.

(f) The department shall adopt a written policy, and may adopt rules under IC 4-22-2, regarding access to information retained under subsection (c).

As added by P.L.48-2012, SEC.56.

IC 31-33-27-4

Expungement of records; amended information

Sec. 4. (a) The department shall expunge child abuse or neglect information relating to a substantiated report not later than the time specified for expungement of the report from the child protection index under IC 31-33-26-15.

(b) The department shall amend information relating to a substantiated report by deleting the name of a person as an alleged perpetrator if:

(1) a court having jurisdiction over a child in need of services proceeding; or

(2) an administrative hearing officer under IC 31-33-26-9;

finds that the person was not a perpetrator of the child abuse or neglect that occurred.

As added by P.L.48-2012, SEC.56.

IC 31-33-27-5

Substantiated reports; perpetrator petitions for expungements

Sec. 5. (a) This section applies to information relating to substantiated reports in any records of the department.

(b) An individual identified as a perpetrator of child abuse or neglect in a substantiated report may file a petition with a court exercising juvenile jurisdiction in the county in which the individual resides, requesting that the court order the department to expunge the substantiated report and related information.

(c) The petitioner shall:

(1) name the department as respondent in the petition; and

(2) serve the department with a copy of the petition and a summons.

(d) The court shall hold a hearing on the petition and any response filed by the department, unless a hearing is waived by agreement of the parties.

(e) In considering whether to grant a petition filed under this section, the court may review:

(1) the factors listed in IC 31-39-8-3 in relation to the petitioner, if the substantiated report was the subject of a juvenile court case; and

(2) any facts relating to the petitioner's current status, activities, employment, contacts with children, or other circumstances relevant to consideration of whether the petition should be granted.

(f) The court may grant the petition if the court finds, by clear and convincing evidence, that:

(1) there is little likelihood that the petitioner will be a future perpetrator of child abuse or neglect; and

(2) the information has insufficient current probative value to justify its retention in records of the department for future reference.

As added by P.L.48-2012, SEC.56.

IC 31-33-27-6

Use of expunged records in civil action

Sec. 6. If the department expunges child abuse or neglect information under this chapter:

(1) at the request of a perpetrator named in an assessment report;

(2) at or after the time for expungement specified in section 4(a) of this chapter; or

(3) under a court order under section 5 of this chapter;

IC 31-39-8-7 applies to any civil action brought against the department or any other agency, entity, or individual, if the content of the expunged information may be relevant to any issue in the civil action.

As added by P.L.48-2012, SEC.56.

IC 31-34

ARTICLE 34. JUVENILE LAW: CHILDREN IN NEED OF SERVICES

IC 31-34-1

Chapter 1. Circumstances Under Which a Child Is a Child in Need of Services

IC 31-34-1-0.1

Repealed

(Repealed by P.L.63-2012, SEC.35.)

IC 31-34-1-1

Inability, refusal, or neglect of parent, guardian, or custodian to supply child with necessary food, clothing, shelter, medical care, education, or supervision

Sec. 1. A child is a child in need of services if before the child becomes eighteen (18) years of age:

(1) the child's physical or mental condition is seriously impaired or seriously endangered as a result of the inability, refusal, or neglect of the child's parent, guardian, or custodian to supply the child with necessary food, clothing, shelter, medical care, education, or supervision; and

(2) the child needs care, treatment, or rehabilitation that:

(A) the child is not receiving; and

(B) is unlikely to be provided or accepted without the coercive intervention of the court.

As added by P.L.1-1997, SEC.17. Amended by P.L.2-2005, SEC.76.

IC 31-34-1-2

Act or omission of parent, guardian, or custodian seriously endangering child's physical or mental health

Sec. 2. (a) A child is a child in need of services if before the child becomes eighteen (18) years of age:

(1) the child's physical or mental health is seriously endangered due to injury by the act or omission of the child's parent, guardian, or custodian; and

(2) the child needs care, treatment, or rehabilitation that:

(A) the child is not receiving; and

(B) is unlikely to be provided or accepted without the coercive intervention of the court.

(b) Evidence that the illegal manufacture of a drug or controlled substance is occurring on property where a child resides creates a rebuttable presumption that the child's physical or mental health is seriously endangered.

As added by P.L.1-1997, SEC.17. Amended by P.L.17-2001, SEC.8; P.L.2-2005, SEC.77.

IC 31-34-1-3

Victim of sex offense; living in household with victim of sex offense

Sec. 3. (a) A child is a child in need of services if, before the child becomes eighteen (18) years of age:

(1) the child is the victim of a sex offense under:

(A) IC 35-42-4-1;

(B) IC 35-42-4-2;

(C) IC 35-42-4-3;

(D) IC 35-42-4-4;

(E) IC 35-42-4-7;

(F) IC 35-42-4-9;

(G) IC 35-45-4-1;

- (H) IC 35-45-4-2;
- (I) IC 35-46-1-3; or
- (J) the law of another jurisdiction, including a military court, that is substantially equivalent to any of the offenses listed in clauses (A) through (I); and
- (2) the child needs care, treatment, or rehabilitation that:
 - (A) the child is not receiving; and
 - (B) is unlikely to be provided or accepted without the coercive intervention of the court.
- (b) A child is a child in need of services if, before the child becomes eighteen (18) years of age:
 - (1) the child lives in the same household as another child who is the victim of a sex offense under:
 - (A) IC 35-42-4-1;
 - (B) IC 35-42-4-2;
 - (C) IC 35-42-4-3;
 - (D) IC 35-42-4-4;
 - (E) IC 35-42-4-7;
 - (F) IC 35-42-4-9;
 - (G) IC 35-45-4-1;
 - (H) IC 35-45-4-2;
 - (I) IC 35-46-1-3; or
 - (J) the law of another jurisdiction, including a military court, that is substantially equivalent to any of the offenses listed in clauses (A) through (I);
 - (2) the child lives in the same household as the adult who committed the sex offense under subdivision (1) and the sex offense resulted in a conviction or a judgment under IC 31-34-11-2;
 - (3) the child needs care, treatment, or rehabilitation that:
 - (A) the child is not receiving; and
 - (B) is unlikely to be provided or accepted without the coercive intervention of the court;
 - and
 - (4) a caseworker assigned to provide services to the child:
 - (A) places the child in a program of informal adjustment or other family or rehabilitative services based upon the existence of the circumstances described in subdivisions (1) and (2) and the assigned caseworker subsequently determines further intervention is necessary; or
 - (B) determines that a program of informal adjustment or other family or rehabilitative services is inappropriate.

As added by P.L.1-1997, SEC.17. Amended by P.L.18-2004, SEC.1.

IC 31-34-1-4

Parent, guardian, or custodian allowing child's participation in obscene performance

Sec. 4. A child is a child in need of services if before the child becomes eighteen (18) years of age:

- (1) the child's parent, guardian, or custodian allows the child to participate in an obscene

performance (as defined by IC 35-49-2-2 or IC 35-49-3-2); and

(2) the child needs care, treatment, or rehabilitation that:

(A) the child is not receiving; and

(B) is unlikely to be provided or accepted without the coercive intervention of the court.

As added by P.L.1-1997, SEC.17. Amended by P.L.2-2005, SEC.78.

IC 31-34-1-5

Parent, guardian, or custodian allowing child to commit sex offense

Sec. 5. A child is a child in need of services if before the child becomes eighteen (18) years of age:

(1) the child's parent, guardian, or custodian allows the child to commit a sex offense prohibited by IC 35-45-4; and

(2) the child needs care, treatment, or rehabilitation that:

(A) the child is not receiving; and

(B) is unlikely to be provided or accepted without the coercive intervention of the court.

As added by P.L.1-1997, SEC.17. Amended by P.L.2-2005, SEC.79.

IC 31-34-1-6

Child substantially endangering own or another's health

Sec. 6. A child is a child in need of services if before the child becomes eighteen (18) years of age:

(1) the child substantially endangers the child's own health or the health of another individual; and

(2) the child needs care, treatment, or rehabilitation that:

(A) the child is not receiving; and

(B) is unlikely to be provided or accepted without the coercive intervention of the court.

As added by P.L.1-1997, SEC.17. Amended by P.L.2-2005, SEC.80.

IC 31-34-1-7

Parent, guardian, or custodian failing to participate in school disciplinary proceeding

Sec. 7. A child is a child in need of services if before the child becomes eighteen (18) years of age:

(1) the child's parent, guardian, or custodian fails to participate in a disciplinary proceeding in connection with the student's improper behavior, as provided for by IC 20-33-8-26, if the behavior of the student has been repeatedly disruptive in the school; and

(2) the child needs care, treatment, or rehabilitation that:

(A) the child is not receiving; and

(B) is unlikely to be provided or accepted without the coercive intervention of the court.

As added by P.L.1-1997, SEC.17. Amended by P.L.1-2005, SEC.203.

IC 31-34-1-8

Missing child

Sec. 8. A child is a child in need of services if before the child becomes eighteen (18) years of age:

- (1) the child is a missing child (as defined in IC 10-13-5-4); and
- (2) the child needs care, treatment, or rehabilitation that:
 - (A) the child is not receiving; and
 - (B) is unlikely to be provided or accepted without the coercive intervention of the court.

As added by P.L.1-1997, SEC.17. Amended by P.L.2-2003, SEC.73.

IC 31-34-1-9

Disabled child deprived of necessary nutrition or medical or surgical intervention

Sec. 9. A child in need of services under section 1, 2, 3, 4, 5, 6, 7, or 8 of this chapter includes a child with a disability who:

- (1) is deprived of nutrition that is necessary to sustain life; or
 - (2) is deprived of medical or surgical intervention that is necessary to remedy or ameliorate a life threatening medical condition;
- if the nutrition or medical or surgical intervention is generally provided to similarly situated children with or without disabilities.

As added by P.L.1-1997, SEC.17. Amended by P.L.131-2009, SEC.58.

IC 31-34-1-10

Child born with fetal alcohol syndrome or with controlled substance or legend drug in child's body

Sec. 10. Except as provided in sections 12 and 13 of this chapter, a child is a child in need of services if:

- (1) the child is born with:
 - (A) fetal alcohol syndrome; or
 - (B) any amount, including a trace amount, of a controlled substance or a legend drug in the child's body; and
- (2) the child needs care, treatment, or rehabilitation that:
 - (A) the child is not receiving; or
 - (B) is unlikely to be provided or accepted without the coercive intervention of the court.

As added by P.L.1-1997, SEC.17.

IC 31-34-1-11

Risks or injuries arising from use of alcohol, controlled substance, or legend drug by child's mother during pregnancy

Sec. 11. Except as provided in sections 12 and 13 of this chapter, a child is a child in need of services if:

(1) the child:

(A) has an injury;

(B) has abnormal physical or psychological development; or

(C) is at a substantial risk of a life threatening condition;

that arises or is substantially aggravated because the child's mother used alcohol, a controlled substance, or a legend drug during pregnancy; and

(2) the child needs care, treatment, or rehabilitation that:

(A) the child is not receiving; or

(B) is unlikely to be provided or accepted without the coercive intervention of the court.

As added by P.L.1-1997, SEC.17. Amended by P.L.2-2005, SEC.81.

IC 31-34-1-12

Exception for mother's good faith use of legend drug according to prescription

Sec. 12. A child is not a child in need of services under section 10 or 11 of this chapter if:

(1) a drug detected in the body of the child under section 10(1) of this chapter or the condition described in section 11(1) of this chapter was caused by a legend drug; and

(2) during pregnancy the child's mother:

(A) possessed a valid prescription for the legend drug;

(B) was not in violation of IC 16-42-19 (the Indiana legend drug act); and

(C) made a good faith attempt to use the legend drug according to the prescription instructions.

As added by P.L.1-1997, SEC.17.

IC 31-34-1-13

Exception for mother's good faith use of controlled substance according to prescription

Sec. 13. A child is not a child in need of services under section 10 or 11 of this chapter if:

(1) a drug detected in the body of the child under section 10(1) of this chapter or the condition described in section 11(1) of this chapter was caused by a controlled substance; and

(2) during pregnancy the child's mother:

(A) possessed a valid prescription for the controlled substance; and

(B) made a good faith attempt to use the controlled substance according to the prescription instructions.

As added by P.L.1-1997, SEC.17.

IC 31-34-1-14

Exception for failure of parent, guardian, or custodian to provide medical treatment because of religious beliefs; rebuttable presumption; effect of presumption

Sec. 14. If a parent, guardian, or custodian fails to provide specific medical treatment for a child because of the legitimate and genuine practice of the religious beliefs of the parent, guardian, or custodian, a rebuttable presumption arises that the child is not a child in need of services because of the failure. However, this presumption does not do any of the following:

(1) Prevent a juvenile court from ordering, when the health of a child requires, medical services from a physician licensed to practice medicine in Indiana.

(2) Apply to situations in which the life or health of a child is in serious danger.

As added by P.L.1-1997, SEC.17.

IC 31-34-1-15

Effect of chapter on use of corporal punishment or religious practices

Sec. 15. This chapter does not do any of the following:

(1) Limit the right of a parent, guardian, or custodian of a child to use reasonable corporal punishment when disciplining the child.

(2) Limit the lawful practice or teaching of religious beliefs.

As added by P.L.1-1997, SEC.17.

IC 31-34-1-16

Termination of parental rights or transfer of custody may not be required; voluntary placement agreements

Sec. 16. (a) The department may not:

(1) initiate a court proceeding to:

(A) terminate the parental rights concerning; or

(B) transfer legal custody of; or

(2) require a parent, guardian, or custodian to consent to:

(A) the termination of parental rights; or

(B) transfer of legal custody of;

a child with an emotional, a behavioral, or a mental disorder or a developmental or physical disability who is voluntarily placed out of the home for the purpose of obtaining special treatment or care, solely because the parent, guardian, or custodian is unable to provide the treatment or care. Relinquishment of custody of a child described in this subsection may not be made a condition for receipt of services or care delivered or funded by the department or the local office.

(b) When a child described in subsection (a) is voluntarily placed out of the home to receive special treatment or care, the department and the parent, guardian, or custodian of the child may execute a voluntary placement agreement that includes the following:

(1) A statement that, by entering into a voluntary placement agreement, the parent,

guardian, or custodian of the child is not transferring legal custody of the child to the department.

(2) A statement specifying the legal status of the child.

(3) A statement specifying the rights and obligations of the parent, guardian, or custodian.

As added by P.L.282-2001, SEC.3. Amended by P.L.145-2006, SEC.289; P.L.128-2012, SEC.157.

IC 31-34-2.3

Chapter 2.3. Child Protective Orders for Removal of Alleged Perpetrators

IC 31-34-2.3-0.1

Repealed

(Repealed by P.L.63-2012, SEC.36.)

IC 31-34-2.3-1

Petition to remove alleged perpetrator of child abuse or neglect from child's residence

Sec. 1. If, after an investigation, the department determines that:

(1) there is probable cause to believe that a child is a child in need of services; and

(2) the child would be protected in the child's residence by the removal of the alleged perpetrator of child abuse or neglect;

the department may file a petition to remove the alleged perpetrator from the child's residence instead of attempting to remove the child from the child's residence.

As added by P.L.52-2007, SEC.8.

IC 31-34-2.3-2

Temporary child protective order; petition

Sec. 2. A court may issue a temporary child protective order in an action by the department for the removal of an alleged perpetrator of child abuse or neglect under section 1 of this chapter without a hearing if the department's petition to remove the alleged perpetrator states facts sufficient to satisfy the court of all of the following:

(1) There is an immediate danger to the physical health or safety of the child or the child has been a victim of sexual abuse.

(2) There is not time for an adversary hearing given the immediate danger to the physical health or safety of the child.

(3) The child is not in danger of child abuse or neglect from a parent or other adult with whom the child will continue to reside in the child's residence.

(4) The issuance of a temporary child protective order is in the best interest of the child.

As added by P.L.52-2007, SEC.8.

IC 31-34-2.3-3

Serving temporary child protective order

Sec. 3. The department shall serve a temporary child protective order issued under section 2

of this chapter on:

- (1) the alleged perpetrator of child abuse or neglect; and
- (2) the parent or other adult with whom the child will continue to reside.

As added by P.L.52-2007, SEC.8.

IC 31-34-2.3-4

Hearing; notice

Sec. 4. (a) A juvenile court shall hold a hearing on the temporary child protective order issued under this chapter not more than forty-eight (48) hours (excluding Saturdays, Sundays, and any day on which a legal holiday is observed for state employees as provided in IC 1-1-9) after the temporary child protective order is issued.

(b) The department shall provide notice of the time, place, and purpose of the hearing to the following:

- (1) The child.
- (2) The child's parent, guardian, or custodian if the person can be located.
- (3) Any adult with whom the child is residing.
- (4) The alleged perpetrator of child abuse or neglect.

As added by P.L.52-2007, SEC.8.

IC 31-34-2.3-5

Issuing child protective order; other relief; valid

Sec. 5. (a) After notice and a hearing, the court may issue a child protective order if the department's petition to remove the alleged perpetrator states facts sufficient to satisfy the court that:

(1) the child is not in danger of child abuse or neglect from a parent or other adult with whom the child will continue to reside in the child's residence; and

(2) one (1) or more of the following exist:

(A) The presence of the alleged perpetrator of child abuse or neglect in the child's residence constitutes a continuing danger to the physical health or safety of the child.

(B) The child has been the victim of sexual abuse, and there is a substantial risk that the child will be the victim of sexual abuse in the future if the alleged perpetrator of child abuse or neglect remains in the child's residence.

(b) If the court issues a child protective order under this section, the court may grant other relief as provided under IC 34-26-5-9.

(c) A child protective order issued under this section is valid until one (1) of the following occurs:

(1) The court determines the child is not a child in need of services.

(2) The child is adjudicated a child in need of services and the court enters a dispositional decree.

As added by P.L.52-2007, SEC.8.

IC 31-34-2.3-6

Duties for parent or other custodian of child; order

Sec. 6. A temporary child protective order issued under this chapter or any other order that requires the removal of an alleged perpetrator of child abuse or neglect from the residence of a child must require that the parent or other adult with whom the child will continue to reside in the child's residence makes reasonable efforts:

(1) to monitor the residence; and

(2) to report to the department and the appropriate law enforcement agency any attempt by the alleged perpetrator of child abuse or neglect to return to the child's residence.

As added by P.L.52-2007, SEC.8.

IC 31-34-2.3-7

Violation of order by parent or other custodian of child

Sec. 7. A parent or other adult with whom a child continues to reside after the issuance of a child protective order issued under section 2 or 5 of this chapter for removal of an alleged perpetrator of child abuse or neglect who knowingly or intentionally fails to comply with the requirements under section 6 of this chapter commits a Class A misdemeanor.

As added by P.L.52-2007, SEC.8.

IC 31-34-2.3-8

Violation of order by alleged perpetrator of child abuse or neglect

Sec. 8. An alleged perpetrator of child abuse who knowingly or intentionally returns to a child's residence in violation of a child protective order issued under section 2 or 5 of this chapter commits a Class A misdemeanor. However, the offense is a Class D felony if the alleged perpetrator has a prior unrelated conviction under this section.

As added by P.L.52-2007, SEC.8.

IC 31-34-5-1

Time for hearing; notice; petition alleging a child is a child in need of services

Sec. 1. (a) If a child taken into custody under IC 31-34-2 is not released, a detention hearing shall be held not later than forty-eight (48) hours, excluding Saturdays, Sundays, and any day on which a legal holiday is observed for state employees as provided under IC 1-1-9, after the child is taken into custody. If the detention hearing is not held, the child shall be released. Notice of the time, place, and purpose of the detention hearing shall be given to the following:

(1) The child.

(2) The child's parent, guardian, or custodian if the person can be located.

(3) Each foster parent or other caretaker with whom the child has been placed for temporary care under IC 31-34-4.

(b) The court shall:

(1) provide a person who is required to be notified under subsection (a)(2) or (a)(3) an opportunity to be heard; and

(2) allow a person described in subdivision (1) to make recommendations to the court; at the detention hearing.

(c) A petition alleging that a child described in subsection (a) is a child in need of services shall be filed before a detention hearing is held for the child.

As added by P.L.1-1997, SEC.17. Amended by P.L.35-1998, SEC.6; P.L.138-2007, SEC.68; P.L.131-2009, SEC.60.

IC 31-34-5-2

Findings

Sec. 2. If a child has been removed from the child's parent, guardian, or custodian under IC 31-34-2-3 or IC 31-34-2-4, then, in accordance with federal law, at the detention hearing the court shall make written findings and conclusions that state the following:

(1) Whether removal of the child authorized by IC 31-34-2-3 or IC 31-34-2-4 was necessary to protect the child.

(2) A description of the family services available before removal of the child.

(3) Efforts made to provide family services before removal of the child.

(4) Why the efforts made to provide family services did not prevent removal of the child.

(5) Whether the efforts made to prevent removal of the child were reasonable.

As added by P.L.1-1997, SEC.17.

IC 31-34-7

Chapter 7. Information About Children in Need of Services, Investigation, and Preliminary Inquiry

IC 31-34-7-1

Preliminary inquiry

Sec. 1. A person may give an intake officer written information indicating that a child is a child in need of services. If the intake officer has reason to believe that the child is a child in need of services, the intake officer shall make a preliminary inquiry to determine whether the interests of the child require further action. Whenever practicable, the preliminary inquiry should include information on the child's background, current status, and school performance.

As added by P.L.1-1997, SEC.17.

IC 31-34-7-2

Provision of preliminary inquiry and recommendation to attorney for department

Sec. 2. The intake officer shall send to the attorney for the department a copy of the preliminary inquiry. The intake officer shall recommend whether to:

(1) file a petition;

(2) informally adjust the case;

- (3) refer the child to another agency; or
- (4) dismiss the case.

As added by P.L.1-1997, SEC.17. Amended by P.L.145-2006, SEC.293; P.L.146-2008, SEC.583.

IC 31-34-7-3

Decision whether to request authorization to file petition

Sec. 3. The person representing the interests of the state and receiving the preliminary inquiry and recommendations shall decide whether to request authorization to file a petition. This decision is final only as to the office of the person making the decision.

As added by P.L.1-1997, SEC.17.

IC 31-34-7-4

Access by accused to report

Sec. 4. A person who is accused of committing child abuse or neglect is entitled under IC 31-33-18-2(14) to access to a report relevant to an alleged accusation.

As added by P.L.1-1997, SEC.17.

IC 31-34-8

Chapter 8. Program of Informal Adjustment

IC 31-34-8-1

Implementation of program; statement by court of reasons for denial; program considered approved in certain circumstances

Sec. 1. (a) After the preliminary inquiry and upon approval by the juvenile court, the intake officer may implement a program of informal adjustment if the officer has probable cause to believe that the child is a child in need of services.

(b) If the juvenile court denies a program of informal adjustment, the court shall state its reasons for the denial. The reasons may include that:

(1) the juvenile court finds no probable cause to believe that the child is a child in need of services; or

(2) the juvenile court finds that the coercive intervention of the juvenile court is required.

(c) If the juvenile court does not act to either:

(1) approve or deny a program of informal adjustment; or

(2) set a hearing date;

within ten (10) days of its submission to the juvenile court, the program of informal adjustment is considered approved.

(d) If:

(1) the juvenile court sets a hearing under subsection (c); and

(2) the hearing is not concluded and action taken to approve or deny the program of informal adjustment within thirty (30) days of the submission of the program to the juvenile court;

the program of informal adjustment is considered approved.
As added by P.L.1-1997, SEC.17. Amended by P.L.146-2008, SEC.584.

IC 31-34-8-2

Consent

Sec. 2. The child and the child's parent, guardian, custodian, or attorney must consent to a program of informal adjustment.
As added by P.L.1-1997, SEC.17.

IC 31-34-8-3

Petition for compliance; notice; hearing; order; contempt

Sec. 3. (a) Upon the filing of a petition for compliance and after notice and a hearing on the petition for compliance, the juvenile court may order the parent, guardian, or custodian of a child to participate in a program of informal adjustment implemented under section 1 of this chapter.
(b) A parent, guardian, or custodian who fails to participate in a program of informal adjustment after being ordered under subsection (a) to participate may be found in contempt of court.
As added by P.L.1-1997, SEC.17. Amended by P.L.146-2008, SEC.585.

IC 31-34-8-4

Repealed

(Repealed by P.L.138-2007, SEC.93.)

IC 31-34-8-5

Repealed

(Repealed by P.L.146-2008, SEC.804.)

IC 31-34-8-6

Duration of program; extension

Sec. 6. A program of informal adjustment may not exceed six (6) months, except by approval of the juvenile court. The juvenile court may extend a program of informal adjustment an additional three (3) months.
As added by P.L.1-1997, SEC.17. Amended by P.L.146-2008, SEC.586.

IC 31-34-8-7

Report on extent of compliance

Sec. 7. (a) Not later than five (5) months after the department implements a program of informal adjustment under this chapter, the department shall file with the court a report indicating the extent of compliance with the program.
(b) If the court approves an extension of the period of the informal adjustment under section 6 of this chapter, the department shall file a supplemental report not later than eight (8) months

after the department implements the program of informal adjustment updating the court on the status of a person's compliance with the program.

As added by P.L.1-1997, SEC.17. Amended by P.L.234-2005, SEC.179; P.L.146-2008, SEC.587.

IC 31-34-10-5

Duty to inform parent or guardian of estate of effect of adjudication

Sec. 5. The juvenile court shall inform the parent or guardian of the estate that if the child is adjudicated a child in need of services:

(1) the parent, guardian, or custodian of the child may be required to participate in a program of care, treatment, or rehabilitation for the child;

(2) the parent or guardian may be held financially responsible for services provided for the parent, guardian, or child; and

(3) the parent, guardian, or custodian of the child may controvert the following:

(A) Allegations made at the child's dispositional or other hearing concerning the parent's, guardian's, or custodian's participation.

(B) Allegations concerning the parent's or guardian's financial responsibility for services that would be provided.

As added by P.L.1-1997, SEC.17.

IC 31-34-12

Chapter 12. Findings, Presumptions, and Evidence

IC 31-34-12-1

Burden of proof of delinquent act or crime

Sec. 1. A finding by a juvenile court that a child committed a delinquent act, or that an adult committed a crime must be based upon proof beyond a reasonable doubt.

As added by P.L.1-1997, SEC.17.

IC 31-34-12-2

Burden of proof in proceedings to terminate parental rights

Sec. 2. Except as provided in IC 31-35-2-4.5(d), a finding in a proceeding to terminate parental rights must be based upon clear and convincing evidence.

As added by P.L.1-1997, SEC.17. Amended by P.L.35-1998, SEC.8.

IC 31-34-12-3

Burden of proof in other cases

Sec. 3. A finding not covered by section 1 or 2 of this chapter must be based upon a preponderance of the evidence.

As added by P.L.1-1997, SEC.17.

IC 31-34-15-1

Requirement of case plan

Sec. 1. In accordance with federal law, a case plan is required for each child in need of

services who is under the supervision of the county as a result of:

- (1) out-of-home placement; or
- (2) issuance of a dispositional decree under IC 31-34-20.

As added by P.L.1-1997, SEC.17.

IC 31-34-15-2

Time for completion

Sec. 2. The department, after negotiating with the child's parent, guardian, or custodian, shall complete a child's case plan not later than sixty (60) days after:

- (1) the date of the child's first placement; or
- (2) the date of a dispositional decree;

whichever comes first.

As added by P.L.1-1997, SEC.17. Amended by P.L.145-2006, SEC.302.

IC 31-34-15-3

Provision of copy of completed case plan

Sec. 3. A copy of the completed case plan shall be sent to the child's parent, guardian, or custodian and to an agency having the legal responsibility or authorization to care for, treat, or supervise the child not later than ten (10) days after the plan's completion.

As added by P.L.1-1997, SEC.17. Amended by P.L.146-2008, SEC.595.

IC 31-34-15-4

Form; contents

Sec. 4. A child's case plan must be set out in a form prescribed by the department that meets the specifications set by 45 CFR 1356.21. The case plan must include a description and discussion of the following:

- (1) A permanent plan for the child and an estimated date for achieving the goal of the plan.
- (2) The appropriate placement for the child based on the child's special needs and best interests.

(3) The least restrictive family-like setting that is close to the home of the child's parent, custodian, or guardian if out-of-home placement is recommended. If an out-of-home placement is appropriate, the local office or department shall consider whether a child in need of services should be placed with the child's suitable and willing blood or adoptive relative caretaker, including a grandparent, an aunt, an uncle, or an adult sibling, before considering other out-of-home placements for the child.

(4) Family services recommended for the child, parent, guardian, or custodian.

(5) Efforts already made to provide family services to the child, parent, guardian, or custodian.

(6) Efforts that will be made to provide family services that are ordered by the court.

(7) A plan for ensuring the educational stability of the child while in foster care that includes assurances that the:

(A) placement of the child in foster care considers the appropriateness of the current educational setting of the child and the proximity to the school where the child is presently enrolled; and

(B) department has coordinated with local educational agencies to ensure:

(i) the child remains in the school where the child is enrolled at the time of removal; or
(ii) immediate, appropriate enrollment of the child in a different school, including arrangements for the transfer of the child's school records to the new school, if remaining in the same school is not in the best interests of the child.

As added by P.L.1-1997, SEC.17. Amended by P.L.145-2006, SEC.303; P.L.131-2009, SEC.64; P.L.128-2012, SEC.161.

IC 31-34-15-5

Cooperation in development of plan

Sec. 5. Each foster parent of a child and the department shall cooperate in the development of the case plan for the child. The department shall discuss with at least one (1) foster parent of a child the foster parent's role regarding the following:

- (1) Rehabilitation of the child and the child's parents, guardians, and custodians.
- (2) Visitation arrangements.
- (3) Services required to meet the special needs of the child.

As added by P.L.1-1997, SEC.17. Amended by P.L.145-2006, SEC.304.

IC 31-34-18-1

Predispositional report; recommendation of care, treatment, or rehabilitation of child; alternative reports

Sec. 1. (a) Upon finding that a child is a child in need of services, the juvenile court shall order the department or a caseworker to prepare a predispositional report that contains a:

- (1) statement of the needs of the child for care, treatment, rehabilitation, or placement; and
 - (2) recommendation for the care, treatment, rehabilitation, or placement of the child.
- (b) Any of the following may prepare an alternative report for consideration by the court:
- (1) The child.
 - (2) The child's:
 - (A) parent;
 - (B) guardian;
 - (C) guardian ad litem;
 - (D) court appointed special advocate; or
 - (E) custodian.

As added by P.L.1-1997, SEC.17. Amended by P.L.55-1997, SEC.14; P.L.146-2008, SEC.597.

IC 31-34-18-1.1

Consultation with experts; participants in conference

Sec. 1.1. (a) The person preparing the report under section 1 of this chapter:

(1) may; or

(2) if directed by the court, shall;

confer with individuals who have expertise in professional areas related to the child's needs in the areas of appropriate care, treatment, rehabilitation, or placement for a child in need of services.

(b) A conference held under this section may include representatives of the following:

(1) The child's school.

(2) The probation department.

(3) The department.

(4) A community mental health center located in the child's county of residence.

(5) A community mental retardation and other developmental disabilities center located in the child's county of residence.

(6) Other persons as the court may direct.

As added by P.L.55-1997, SEC.15. Amended by P.L.145-2006, SEC.307.

IC 31-34-18-1.2

Mandatory attendance of child's school representative at conference

Sec. 1.2. If a child in need of services is known to be eligible for special education services or placement under IC 20-35 and 511 IAC 7, the conference described in section 1.1 of this chapter must include a representative from the child's school.

As added by P.L.55-1997, SEC.16. Amended by P.L.1-2005, SEC.204.

IC 31-34-18-1.3

Reports by meeting participants

Sec. 1.3. (a) The individuals participating in a meeting described in section 1.1 of this chapter shall assist the person preparing the report in recommending the care, treatment, rehabilitation, or placement of the child.

(b) The individuals shall inform the person preparing the report of resources and programs that are available for the child.

As added by P.L.55-1997, SEC.17.

IC 31-34-18-2

Predispositional report; participation by parent, guardian, or custodian; out-of-home placement with blood or adoptive relative caretaker

Sec. 2. (a) In addition to providing the court with a recommendation for the care, treatment, or rehabilitation of the child, the person preparing the report shall consider the necessity, nature, and extent of the participation by a parent, guardian, or custodian in a program of care, treatment, or rehabilitation for the child.

(b) If the department or caseworker believes that an out-of-home placement would be appropriate for a child in need of services, the department or caseworker shall consider whether

the child should be placed with the child's suitable and willing blood or adoptive relative caretaker, including a grandparent, an aunt, an uncle, or an adult sibling, before considering other out-of-home placements for the child.

As added by P.L.1-1997, SEC.17. Amended by P.L.146-2008, SEC.598.

IC 31-34-18-3

Financial reports

Sec. 3. The department or caseworker shall also prepare a financial report on the parent or the estate of the child to assist the juvenile court in determining the person's financial responsibility for services provided for the child or the person.

As added by P.L.1-1997, SEC.17. Amended by P.L.146-2008, SEC.599.

IC 31-34-18-4

Recommendation on care, treatment, rehabilitation, or placement

Sec. 4. If consistent with the safety and best interest of the child and the community, the person preparing the report shall recommend care, treatment, rehabilitation, or placement that:

(1) is:

(A) in the least restrictive (most family like) and most appropriate setting available; and

(B) close to the parents' home, consistent with the best interest and special needs of the child;

(2) least interferes with family autonomy;

(3) is least disruptive of family life;

(4) imposes the least restraint on the freedom of the child and the child's parent, guardian, or custodian; and

(5) provides a reasonable opportunity for participation by the child's parent, guardian, or custodian.

As added by P.L.1-1997, SEC.17. Amended by P.L.55-1997, SEC.18.

IC 31-34-18-5

Examinations

Sec. 5. The juvenile court may do the following:

(1) Authorize any examination of the child under IC 31-32-12.

(2) Make provision for similar examination of the parent, guardian, or custodian if the person gives consent.

As added by P.L.1-1997, SEC.17.

IC 31-34-18-6

Disclosure

Sec. 6. (a) Predispositional reports shall be made available within a reasonable time before the dispositional hearing, unless the juvenile court determines on the record that the reports contain

information that should not be released to the child or the child's parent, guardian, or custodian.

(b) The court shall provide a copy of the report to:

(1) each attorney, guardian ad litem, or court appointed special advocate representing the child; and

(2) each attorney representing the child's parent, guardian, or custodian.

(c) The court may provide a factual summary of the report to:

(1) the child; or

(2) the child's parent, guardian, or custodian.

As added by P.L.1-1997, SEC.17. Amended by P.L.197-1997, SEC.27.

IC 31-34-18-6.1

Predispositional report; contents

Sec. 6.1. (a) The predispositional report prepared by the department or caseworker must include the following information:

(1) A description of all dispositional options considered in preparing the report.

(2) An evaluation of each of the options considered in relation to the plan of care, treatment, rehabilitation, or placement recommended under the guidelines described in section 4 of this chapter.

(3) The name, occupation and position, and any relationship to the child of each person with whom the preparer of the report conferred as provided in section 1.1 of this chapter.

(b) If the department or caseworker is considering an out-of-home placement, including placement with a blood or an adoptive relative caretaker, the department or caseworker shall conduct a criminal history check (as defined in IC 31-9-2-22.5) for each person who is currently residing in the location designated as the out-of-home placement. The results of the criminal history check must be included in the predispositional report.

(c) The department or caseworker is not required to conduct a criminal history check under this section if:

(1) the department or caseworker is considering only an out-of-home placement to an entity or a facility that:

(A) is not a residence (as defined in IC 3-5-2-42.5); or

(B) is licensed by the state; or

(2) placement under this section is undetermined at the time the predispositional report is prepared.

As added by P.L.55-1997, SEC.19. Amended by P.L.70-2004, SEC.19; P.L.234-2005, SEC.181; P.L.145-2006, SEC.308; P.L.146-2008, SEC.600.

Chapter 20. Dispositional Decrees

IC 31-34-20-1

Entry of dispositional decree; placement in home or facility outside Indiana; removal of child; award of wardship

Sec. 1. (a) Subject to this section and section 1.5 of this chapter, if a child is a child in need of services, the juvenile court may enter one (1) or more of the following dispositional decrees:

(1) Order supervision of the child by the department.

(2) Order the child to receive outpatient treatment:

(A) at a social service agency or a psychological, a psychiatric, a medical, or an educational facility; or

(B) from an individual practitioner.

(3) Remove the child from the child's home and authorize the department to place the child in another home or shelter care facility. Placement under this subdivision includes authorization to control and discipline the child.

(4) Award wardship of the child to the department for supervision, care, and placement.

(5) Partially or completely emancipate the child under section 6 of this chapter.

(6) Order the child's parent, guardian, or custodian to complete services recommended by the department and approved by the court under IC 31-34-16, IC 31-34-18, and IC 31-34-19.

(7) Order a person who is a party to refrain from direct or indirect contact with the child.

(8) Order a perpetrator of child abuse or neglect to refrain from returning to the child's residence.

(b) A juvenile court may not place a child in a home or facility that is located outside Indiana unless:

(1) the placement is recommended or approved by the director of the department or the director's designee; or

(2) the juvenile court makes written findings based on clear and convincing evidence that:

(A) the out-of-state placement is appropriate because there is not a comparable facility with adequate services located in Indiana; or

(B) the location of the home or facility is within a distance not greater than fifty (50) miles from the county of residence of the child.

(c) If a dispositional decree under this section:

(1) orders or approves removal of a child from the child's home or awards wardship of the child to the department; and

(2) is the first juvenile court order in the child in need of services proceeding that authorizes or approves removal of the child from the child's parent, guardian, or custodian; the juvenile court shall include in the decree the appropriate findings and conclusions described in IC 31-34-5-3(b) and IC 31-34-5-3(c).

As added by P.L.1-1997, SEC.17. Amended by P.L.70-2004, SEC.21;

P.L.145-2006, SEC.311; P.L.146-2006, SEC.50; P.L.52-2007, SEC.10; P.L.146-2008, SEC.602.

IC 31-34-20-6

Emancipation of child; findings; terms

Sec. 6. (a) The juvenile court may emancipate a child under section 1(5) of this chapter if the court finds that the child:

(1) wishes to be free from parental control and protection and no longer needs that control and protection;

(2) has sufficient money for the child's own support;

(3) understands the consequences of being free from parental control and protection; and

- (4) has an acceptable plan for independent living.
- (b) If the juvenile court partially or completely emancipates the child, the court shall specify the terms of the emancipation, which may include the following:
 - (1) Suspension of the parent's or guardian's duty to support the child. In this case the judgment of emancipation supersedes the support order of a court.
 - (2) Suspension of the following:
 - (A) The parent's or guardian's right to the control or custody of the child.
 - (B) The parent's right to the child's earnings.
 - (3) Empowering the child to consent to marriage.
 - (4) Empowering the child to consent to military enlistment.
 - (5) Empowering the child to consent to:
 - (A) medical
 - (B) psychological;
 - (C) psychiatric;
 - (D) educational; or
 - (E) social;services.
 - (6) Empowering the child to contract.
 - (7) Empowering the child to own property.
- (c) An emancipated child remains subject to the following:
 - (1) IC 20-33-2 concerning compulsory school attendance.
 - (2) The continuing jurisdiction of the court.

As added by P.L.1-1997, SEC.17. Amended by P.L.1-2005, SEC.206.

IC 31-34-21

Chapter 21. Review of Dispositional Decrees; Formal Review Hearings

IC 31-34-21-0.1

Application of certain amendments to chapter

Sec. 0.1. The addition of section 7.7 of this chapter by P.L.217-2001 applies to all proceedings pending under IC 31-34 on July 1, 2001, and to all proceedings commenced under IC 31-34 after June 30, 2001.

As added by P.L.220-2011, SEC. 515.

IC 31-34-21-0.2

First periodic case review; petition to terminate parent-child relationship; conditions; required notice

Sec. 0.2. At a child's first periodic case review occurring after June 30, 1998, the local office is required to advise the child's parent, guardian, or custodian in writing that a petition to terminate the parent-child relationship must be filed with respect to the child after June 30, 1999, if the child has been removed from the child's parent and has been under the supervision of a local office for at least fifteen (15) months of the most recent twenty-two (22) months. However, if a child's parent, guardian, or custodian fails to appear at the first periodic case review occurring

after June 30, 1998, the local office shall make reasonable efforts to send notice of the advisement to the last known address of the parent, guardian, or custodian.

As added by P.L.220-2011, SEC.516. Amended by P.L.128-2012, SEC.166.

IC 31-34-21-1

Progress reports; procedure for modification of decree

Sec. 1. (a) At any time after the date of an original dispositional decree, the juvenile court may order the department to file a report on the progress made in implementing the decree.

(b) The juvenile court shall order the department to file a report every three (3) months after the dispositional decree is entered on the progress made in implementing the decree.

(c) If, after reviewing the report, the juvenile court seeks to consider modification of the dispositional decree, the juvenile court shall proceed under IC 31-34-23.

As added by P.L.1-1997, SEC.17. Amended by P.L.145-2006, SEC. 313; P.L.146-2006, SEC.51.

IC 31-34-21-2

Periodic case review

Sec. 2. (a) The case of each child in need of services under the supervision of the department must be reviewed at least once every six (6) months, or more often, if ordered by the court.

(b) The first of these periodic case reviews must occur:

(1) at least six (6) months after the date of the child's removal from the child's parent, guardian, or custodian; or

(2) at least six (6) months after the date of the dispositional decree; whichever comes first.

(c) Each periodic case review must be conducted by the juvenile court in a formal court hearing.

(d) The court may perform a periodic case review any time after a progress report is filed as described in section 1 of this chapter.

As added by P.L.1-1997, SEC. 17. Amended by P.L.35-1998, SEC. 9; P.L.145-2006, SEC. 314; P.L.146-2006, SEC52; P.L. 146-2008, SEC. 605.

IC 31-34-21-3

Progress report required before case review

Sec. 3. Before a case review under section 2 of this chapter, the department shall prepare a report in accordance with IC 31-34-22 on the progress made in implementing the dispositional decree.

As added by P.L.1-1997, SEC. 17. Amended by P.L.145-2006, SEC. 315; P.L.146-2008, SEC. 606.

IC 31-34-21-4

Notice of case review; testimony in periodic case review

Sec. 4. (a) Except as provided in subsection (f), at least seven (7) days before the periodic case review, including a case review that is a permanency hearing under section 7 of this chapter, the department shall provide notice of the review to each of the following:

- (1) The child's parent, guardian, or custodian.
 - (2) An attorney who has entered an appearance on behalf of the child's parent, guardian, or custodian.
 - (3) A prospective adoptive parent named in a petition for adoption of the child filed under IC 31-19-2 if:
 - (A) each consent to adoption of the child that is required under IC 31-19-9-1 has been executed in the form and manner required by IC 31-19-9 and filed with the local office;
 - (B) the court having jurisdiction in the adoption case has determined under any applicable provision of IC 31-19-9 that consent to adoption is not required from a parent, guardian, or custodian; or
 - (C) a petition to terminate the parent-child relationship between the child and any parent who has not executed a written consent to adoption under IC 31-19-9-2 has been filed under IC 31-35 and is pending.
 - (4) The child's foster parent or long term foster parent.
 - (5) Any other person who:
 - (A) the department has knowledge is currently providing care for the child; and
 - (B) is not required to be licensed under IC 12-17.2 or IC 31-27 to provide care for the child.
 - (6) Any other suitable relative or person whom the department knows has had a significant or caretaking relationship to the child.
- (b) The department shall present proof of service of the notice required by subsection (a) at the periodic case review.
- (c) The department shall provide notices under this section as provided in IC 31-32-1-4.
- (d) The court shall provide to a person described in subsection (a) an opportunity to be heard and to make any recommendations to the court in a periodic case review, including a permanency hearing under section 7 of this chapter. The right to be heard and to make recommendations under this subsection includes:
- (1) the right of a person described in subsection (a) to submit a written statement to the court that, if served upon all parties to the child in need of services proceeding and the persons described in subsection (a), may be made a part of the court record; and
 - (2) the right to present oral testimony to the court and cross examine any of the witnesses at the hearing.
- (e) Except as provided in subsection (f), this section does not exempt the department from sending a notice of the review to each party to the child in need of services proceeding.
- (f) If the parent of an abandoned child does not disclose the parent's name as allowed by IC 31-34-2.5-1(c), the parent is not required to be notified of a proceeding described in subsection (a).

As added by P.L.1-1997, SEC. 17. Amended by P.L.35-1998, SEC.10; P.L.133-2000, SEC.6; P.L.217-2001, SEC.9; P.L.152-2003, SEC.2; P.L.145-2006, SEC.316; P.L.72-2008, SEC.3; P.L.128-2012, SEC. 167.

IC 31-34-21-4.5

Foster parent's intervention

Sec. 4.5. (a) Except as provided in subsection (b) a foster parent, long term foster parent, or a person who has been a foster parent may petition the court to request intervention as a party to a proceeding described in this chapter.

(b) A foster parent who has been:

- (1) the subject of a substantiated report of child abuse or neglect; or
- (2) convicted of a felony listed in IC 31-27-4-13; may not petition the court to intervene under this section.

(c) A court may grant a petition filed under this section if the court determines that intervention of the petitioner is in the best interests of the child.

As added by P.L.133-2000, SEC. 7. Amended by FL. 152-2003, SEC. 3; P.L.145-2006, SEC. 317.

IC 31-34-21-4.6

"Long term foster parent"

Sec. 4.6. As used in this section, "long term foster parent" means a foster parent who has provided care and supervision for a child for at least:

- (1) the twelve (12) most recent months; or
- (2) fifteen (15) months of the most recent twenty-two (22) months.

As added by P.L.152-2003, SEC.4.

IC 31-34-21-5

Determination; findings

Sec. 5. (a) The court shall determine:

- (1) whether the child's case plan, services, and placement meet the special needs and best interests of the child;
- (2) whether the department has made reasonable efforts to provide family services; and
- (3) a projected date for the child's return home, the child's adoption placement, the child's emancipation, or the appointment of a legal guardian for the child under section 7.5(c)(1)(E) of this chapter.

(b) The determination of the court under subsection (a) must be based on findings written after consideration of the following:

- (1) Whether the department, the child, or the child's parent, guardian, or custodian has complied with the child's case plan.
- (2) Written documentation containing descriptions of:
 - (A) the family services that have been offered or provided to the child or the child's parent, guardian, or custodian;
 - (B) the dates during which the family services were offered or provided; and
 - (C) the outcome arising from offering or providing the family services.
- (3) The extent of the efforts made by the department to offer and provide family services.
- (4) The extent to which the parent, guardian, or custodian has enhanced the ability to fulfill parental obligations.
- (5) The extent to which the parent, guardian, or custodian has visited the child, including the

reasons for infrequent visitation.

(6) The extent to which the parent, guardian, or custodian has cooperated with the department.

(7) The child's recovery from any injuries suffered before removal.

(8) Whether any additional services are required for the child or the child's parent, guardian, or custodian and, if so, the nature of those services.

(9) The extent to which the child has been rehabilitated.

(10) If the child is placed out-of-home, whether the child is in the least restrictive, most family-like setting, and whether the child is placed close to the home of the child's parent, guardian, or custodian.

(11) The extent to which the causes for the child's out-of-home placement or supervision have been alleviated.

(12) Whether current placement or supervision by the department should be continued.

(13) The extent to which the child's parent, guardian, or custodian has participated or has been given the opportunity to participate in case planning, periodic case reviews, dispositional reviews, placement of the child, and visitation.

(14) Whether the department has made reasonable efforts to reunify or preserve a child's family unless reasonable efforts are not required under section 5.6 of this chapter.

(15) Whether it is an appropriate time to prepare or implement a permanency plan for the child under section 7.5 of this chapter.

As added by P.L.1-1997, SEC. 17. Amended by P.L.35-1998, SEC. 11; P.L.145-2006, SEC. 318; P.L.146-2008, SEC.607.

IC 31-34-21-5.5

Reasonable efforts to preserve and reunify families

Sec. 5.5. (a) In determining the extent to which reasonable efforts to reunify or preserve a family are appropriate under this chapter, the child's health and safety are of paramount concern.

(b) Except as provided in section 5.6 of this chapter, the department shall make reasonable efforts to preserve and reunify families as follows:

(1) If a child has not been removed from the child's home, to prevent or eliminate the need for removing the child from the child's home.

(2) If a child has been removed from the child's home, to make it possible for the child to return safely to the child's home as soon as possible.

(c) The department may, before reunification of the child with a parent, guardian, or custodian, conduct a criminal history check (as defined in IC 31-9-2-22.5) of:

(1) the child's:

(A) parent;

(B) guardian; or

(C) custodian; or

(2) a household member of the:

(A) parent;

(B) guardian; or

(C) custodian.

(d) The department may use the results of a criminal history check conducted under subsection (c) to decide whether it is safe for the child to return home.

As added by P.L.35-1998, SEC. 12. Amended by P.L.1-1999, SEC. 62; P.L.145-2006, SEC. 319; P.L.48-2012, SEC.64.

IC 31-34-21-5.6

Exceptions to requirement to make reasonable efforts to preserve and reunify families

Sec. 5.6. (a) A court may make a finding described in this section at any phase of a child in need of services proceeding.

(b) Reasonable efforts to reunify a child with the child's parent, guardian, or custodian or preserve a child's family as described in section 5.5 of this chapter are not required if the court finds any of the following:

(1) A parent, guardian, or custodian of a child who is a child in need of services has been convicted of;

(A) an offense described in IC 31-35-3-4(1)(B) or IC 31-35-3-4(1)(D) through IC 31-35-3-4(1)(J) against a victim who is:

(i) a child described in IC 31-35-3-4(2); or

(ii) a parent of the child; or

(B) a comparable offense as described in clause (A) in any other state, territory, or country by a court of competent jurisdiction.

(2) A parent, guardian, or custodian of a child who is a child in need of services:

(A) has been convicted of:

(i) the murder (IC 35-42-1-1) or voluntary manslaughter (IC 35-42-1-3) of a victim who is a child described in IC 31-35-3-4(2)(B) or a parent of the child; or

(ii) a comparable offense described in item (i) in any other state, territory, or country; or

(B) has been convicted of:

(i) aiding, inducing, or causing another person;

(ii) attempting; or

(iii) conspiring with another person; to commit an offense described in clause (A).

(3) A parent, guardian, or custodian of a child who is a child in need of services has been convicted of:

(A) battery (IC 35-42-2-1(a)(5)) as a Class A felony;

(B) battery (IC 35-42-2-1 (a)(4)) as a Class B felony;

(C) battery (IC 35-42-2-1(a)(3)) as a Class C felony;

(D) aggravated battery (IC 35-42-2-1.5);

(E) criminal recklessness (IC 35-42-2-2) as a Class C felony;

(F) neglect of a dependent (IC 35-46-1-4) as a Class B felony; or

(G) a comparable offense described in clauses (A) through (F) in another state, territory, or country;

against a child described in IC 31-35-3-4(2)(B).

(4) The parental rights of a parent with respect to a biological or adoptive sibling of a child who is a child in need of services have been involuntarily terminated by a court under:

- (A)IC 31-35-2 (involuntary termination involving a delinquent child or a child in need of services);
 - (B)IC 31-35-3 (involuntary termination involving an individual convicted of a criminal offense); or
 - (C)any comparable law described in clause (A) or (B) in any other state, territory, or country.
- (5) The child is an abandoned infant, provided that the court:
- (A)has appointed a guardian ad litem or court appointed special advocate for the child; and
 - (B)after receiving a written report and recommendation from the guardian ad litem or court appointed special advocate, and after a hearing, finds that reasonable efforts to locate the child's parents or reunify the child's family would not be in the best interests of the child.

As added by P.L.35-1998, SEC. 13. Amended by P.L.197-1999, SEC. 5; P.L.133-2000, SEC. 8: P.L.222-2001, SEC.2; P.L.217-2001, SEC. 10; P.L.1-2003, SEC. 78.

IC 31-34-21-5.7

Permanency plan; requirement; approval; reports and orders not required

Sec. 5.7. (a) This section applies at any phase of a child in need of services proceeding whenever a court enters a finding that reasonable efforts to reunify or preserve a child's family are not required under section 5.6 of this chapter.

(b) The department shall do the following:

(1)Complete a permanency plan for the child that complies with the requirements of section 7.5 of this chapter.

(2)Seek court approval of the permanency plan under section 7 of this chapter.

(3)Refer a case to the permanency roundtable if the department places a child in a child caring institution, group home, or private secure facility.

(c) Notwithstanding any otherwise applicable requirements under IC 31-34, whenever the department seeks approval of a permanency plan for the child under subsection (b), the following reports, orders, and hearings are not required:

(1)A predispositional report to consider participation of a child's parent, guardian, or custodian in any program of care, treatment, or rehabilitation of the child.

(2)A dispositional decree under IC 31-34-19-6 and findings and conclusions under IC 31-34-19-10 that concern:

(A)participation of the child's parent, guardian, or custodian in a program for future care or treatment of the child; or

(B)reasonable efforts to prevent the child's removal from the child's home or to reunite the child with the child's parent, guardian, or custodian.

As added by P.L.35-1998, SEC. 14. Amended by FL. 145-2006, SEC. 320; P.L.48-2012, SEC. 65.

IC 31-34-21-5.8

Certain reasonable efforts required if preservation and reunification inconsistent with permanency plan; progress reports, case reviews, and post-dispositional hearings not required

Sec. 5.8. (a) This section applies only if a court has approved a permanency plan for a child under section 7(b)(5) of this chapter.

(b) If the continuation of reasonable efforts to preserve and reunify a child in need of services with the child's family is inconsistent with the child's permanency plan, the department shall make reasonable efforts to:

(1) with court approval place the child in an out-of-home placement in accordance with the permanency plan; and

(2) complete whatever steps are necessary to finalize the permanent placement of the child in a timely manner.

(c) This subsection applies whenever the child's approved permanency plan under section 7 of this chapter is placement of the child for adoption or another planned, permanent living arrangement. Periodic progress reports, case reviews, and post-dispositional hearings to determine whether or the extent to which the following have occurred are not required:

(1) Whether reasonable efforts have been made to eliminate the need for removal of the child from the child's home or to make it possible for the child to safely return to the child's home.

(2) Whether the child is placed in close proximity to the home of the child's parent, guardian, or custodian.

As added by P.L.35-1998, SEC. 15. Amended by P.L.145-2006, SEC. 321; P.L.162-2011, SEC. 51,

IC 31-34-21-6

Repealed

(Repealed by P.L.35-1998, SEC.28.)

IC 31-34-21-7

Permanency hearing

Sec. 7. (a) The court shall hold a permanency hearing:

(1) not more than thirty (30) days after a court finds that reasonable efforts to reunify or preserve a child's family are not required as described in section 5.6 of this chapter;

(2) every twelve (12) months after:

(A) the date of the original dispositional decree; or

(B) a child in need of services was removed from the child's parent, guardian, or custodian; whichever comes first; or

(3) more often if ordered by the juvenile court.

(b) The court shall:

(1) make the determination and findings required by section 5 of this chapter;

(2) consider the question of continued jurisdiction and whether the dispositional decree should be modified;

(3) consider recommendations of persons listed under section 4 of this chapter, before approving a permanency plan under subdivision (5);

(4) consult with the child in person, or through an interview with or written statement or report submitted by:

(A) a guardian ad litem or court appointed special advocate for the child;

(B) a case manager; or

(C)the person with whom the child is living and who has primary responsibility for the care and supervision of the child; in an age appropriate manner as determined by the court, regarding the proposed permanency plan;

(5) consider and approve a permanency plan for the child that complies with the requirements set forth in section 7.5 of this chapter;

(6) determine whether an existing permanency plan must be modified; and

(7) examine procedural safeguards used by the department to protect parental rights.

(c) If the child is at least sixteen (16) years of age and the proposed permanency plan provides for the transition of the child from foster care to independent living, the court shall:

(1)require the department to provide notice of the permanency hearing to the child, in accordance with section 4(a) of this chapter; and

(2)provide to the child an opportunity to be heard and to make recommendations to the court, in accordance with section 4(d) of this chapter.

(d) There is a rebuttable presumption that jurisdiction over the child in a child in need of services proceeding continues for not longer than twelve (12) months after the date of the original dispositional decree or twelve (12) months after the child in need of services was removed from the child's parent, guardian, or custodian, whichever occurs first. The state may rebut the presumption and show that jurisdiction should continue by proving that the objectives of the dispositional decree have not been accomplished, that a continuation of the decree with or without any modifications is necessary, and that it is in the child's best interests for the court to maintain its jurisdiction over the child. If the department does not sustain its burden for continued jurisdiction, the court shall:

(1)direct the department to establish a permanency plan within thirty (30) days; or

(2)discharge the child and the child's parent, guardian, or custodian.

The court may retain jurisdiction to the extent necessary to carry out any orders under subdivision (1).

As added by P.L.1-1997, SEC.17. Amended by P.L.35-1998, SEC.16; P.L.1-1999, SEC. 63; P.L.14-2000, SEC. 64; P.L.145-2006, SEC. 322; P.L.138-2007, SEC. 74; P.L.72-2008, SEC. 4.

IC 31-34-21-7.3

Internet posting of non-identifying information

Sec. 7.3.'(a) This section applies after:

(1)a court authorizes the filing of a petition to terminate the parent-child relationship; or

(2)a petition to terminate the parent-child relationship is filed; in relation to a child in need of services.

(b) The department shall post the following non-identifying information on the Internet to facilitate a potential adoptive placement of the child:

(1) The child's age, gender, and summary of the child's educational, social, and medical background, including known disabilities.

(2) The reason the child was removed from the child's home.

(3) Whether a person has expressed an interest in adopting the child.

(4) The name, address, and telephone number of a contact person from:

(A)the department;

(B)the appropriate local office; or

- (C) licensed child placing agency; where a person who may be interested in adopting the child may obtain further information about adopting the child.
- (5) Whether a petition to terminate the rights of the child's parents has been authorized or filed, and whether the rights of the child's parents have been terminated
- (6) An address and telephone number of:
- (A) the department;
 - (B) the appropriate local office; or
 - (C) licensed child placing agency; where a person who may be interested in adopting the child may obtain further information about adopting the child.
- (c) The information posted under subsection (b) may not identify the name of any of the following persons:
- (1) The child.
 - (2) The child's biological or adoptive parents.
 - (3) A sibling of the child.
 - (4) A caretaker of the child.
- (d) The department shall update any relevant information under this section after either of the following:
- (1) Each of the child's periodic reviews that occur after the information under this section is required to be posted.
 - (2) The rights of the child's parents have been terminated.
- (e) The department shall remove the information required under subsection (b) from the Internet whenever the child is reunited with the child's family or an adoption of the child is filed under IC 31-19-2.
- (f) Upon request, the department shall inform the person making the request of the address of the Internet web site containing the information described in this section.

As added by P.L.35-1998, SEC. 17. Amended by P.L.145-2006, SEC. 323; P.L.128-2012, SEC. 168.

IC 31-34-21-7.5

Permanency plans prohibited if household contains certain individuals; exceptions

Sec. 7.5. (a) Except as provided in subsection (d), the juvenile court may not approve a permanency plan under subsection (c)(1)(D), (c)(1)(E), or (c)(1)(F) if a person who is currently residing with a person described in subsection (c)(1)(D) or (c)(1)(E) or in a residence in which the child would be placed under subsection (c)(1)(F) has committed an act resulting in a substantiated report of child abuse or neglect, has a juvenile adjudication for an act that would be a felony listed in IC 31-27-4-13 if committed by an adult, or has a conviction for a felony listed in IC 31-27-4-13.

(b) Before requesting juvenile court approval of a permanency plan, the department shall conduct a criminal history check (as defined in IC 31-9-2-22.5) to determine if a person described in subsection

(a) _ has committed an act resulting in a substantiated report of child abuse or neglect, has a juvenile adjudication for an act that would be a felony listed in IC 31-27-4-13 if committed by an adult, or has a conviction for a felony listed in IC 31-27-4-13. However, the department is not required to conduct a criminal history check under this section if criminal history information

under IC 31-34-4-2, IC 31-34-18-6.1, or IC 31-34-20-1.5 establishes whether a person described in subsection (a) has committed an act resulting in a substantiated report of child abuse or neglect, has a juvenile adjudication for an act that would be a felony listed in IC 31-27-4-13 if committed by an adult, or has a conviction for a felony listed in IC 31-27-4-13.

(c) A permanency plan under this chapter includes the following:

(1) The intended permanent or long term arrangements for care and custody of the child that may include any of the following arrangements that the department or the court considers most appropriate and consistent with the best interests of the child:

(A) Return to or continuation of existing custodial care within the home of the child's parent, guardian, or custodian or placement of the child with the child's noncustodial parent.

(B) Initiation of a proceeding for termination of the parent-child relationship under IC 31-35.

(C) Placement of the child for adoption.

(D) Placement of the child with a responsible person, including:

(i) an adult sibling;

(ii) a grandparent;

(iii) an aunt;

(iv) an uncle; or

(v) another relative;

who is able and willing to act as the child's permanent custodian and carry out the responsibilities required by the permanency plan.

(E) Appointment of a legal guardian. The legal guardian appointed under this section is a caretaker in a judicially created relationship between the child and caretaker that is intended to be permanent and self-sustaining as evidenced by the transfer to the caretaker of the following parental rights with respect to the child:

(i) Care, custody, and control of the child.

(ii) Decision making concerning the child's upbringing.

(F) Placement of the child in another planned, permanent living arrangement.

(2) A time schedule for implementing the applicable provisions of the permanency plan.

(3) Provisions for temporary or interim arrangements for care and custody of the child, pending completion of implementation of the permanency plan.

(4) Other items required to be included in a case plan under IC 31-34-15 or federal law, consistent with the permanent or long term arrangements described by the permanency plan.

(d) A juvenile court may approve a permanency plan if:

(1) a person described in subsection (a) has:

(A) committed an act resulting in a substantiated report of child abuse or neglect;

(B) been convicted of:

(i) battery (IC 35-42-2-1);

(ii) criminal confinement (IC 35-42-3-3) as a felony;

(iii) carjacking (IC 35-42-5-2);

(iv) arson (IC 35-43-1-1) as a felony;

(v) a felony involving a weapon under IC 35-47 or a felony involving controlled explosives under IC 35-47.5;

(vi) a felony relating to controlled substances under IC 35-48-4;

(vii) a felony under IC 9-30-5; or

(viii) a felony that is substantially equivalent to a felony listed in items (i) through (vii) for which the conviction was entered in another state; if the conviction did not occur within the past five (5) years; or

(C) had a juvenile adjudication for an act listed in IC 31-27-4-13(a) that, if committed by an adult, would be a felony; and

(2) the person's commission of the offense, delinquent act, or act of abuse or neglect described in subdivision (1) is not relevant to the person's present ability to care for a child, and that approval of the permanency plan is in the best interest of the child.

However, a court may not approve a permanency plan if the person has been convicted of a felony listed in IC 31-27-4-13 that is not specifically excluded under subdivision (1)(B), or has a juvenile adjudication for an act that would be a felony listed in IC 31-27-4-13 if committed by an adult that is not specifically excluded under subdivision (1)(B).

(e) In making its written finding under subsection (d), the court shall consider the following:

(1) The length of time since the person committed the offense, delinquent act, or act that resulted in the substantiated report of abuse or neglect.

(2) The severity of the offense, delinquent act, or abuse Or neglect.

(3) Evidence of the person's rehabilitation, including the person's cooperation with a treatment plan, if applicable.

As added by P.L.35-1998, SEC. 18. Amended by P.L.70-2004, SEC. 23; P.L.234-2005, SEC. 184;

P.L.145-2006, SEC. 324; P.L.146-2008, SEC. 608; P.L.128-2012, SEC. 169.

IC 31-34-21-7.7

Permanency plan; guardianship; requirements and terms and conditions in order; jurisdiction

Sec. 7.7. (a) If the juvenile court approves a permanency plan under section 7 of this chapter that provides for the appointment of a guardian for a child, the juvenile court may appoint a guardian of the person and administer a guardianship for the child under IC 29-3.

(b) If a guardianship of the person proceeding for the child is pending in a probate court, the probate court shall transfer the proceeding to the juvenile court.

(c) In creating a guardianship of a minor, a probate or juvenile court may include in an order the requirements and terms and conditions described in IC 29-3-8-9(a).

(d) If the juvenile court closes a child in need of services case after creating a guardianship, the juvenile court order creating the guardianship survives the closure of the child in need of services case.

(e) If the juvenile court closes the child in need of services case after creating a guardianship, the probate court may assume or reassume jurisdiction of the guardianship and take further action as necessary.

As added by P.L.217-2001, SEC.11. Amended by P.L.162-2011, SEC. 52.

IC 31-34-21-8

Progress report required before formal hearing

Sec. 8. Before a hearing under section 7 of this chapter, the department shall prepare a report in accordance with IC 31-34-22 on the progress made in implementing the dispositional decree.

As added by FL. 1-1997, SEC. 17. Amended by P.L.145-2006, SEC.325; FL. 146-2008, SEC. 609.

IC 31-34-21-9

Foster care review board

Sec. 9. (a) The juvenile court may assign cases to a foster care review board established by the court to assist the court in reviewing foster care placements.

(b) The foster care review board shall review a foster care placement at the juvenile court's request and shall file a report, including findings and recommendations with the court.

(c) If the juvenile court believes the contents of a confidential report or document would benefit the review board, the court may provide the review board with an order authorizing disclosure of the

Delinquency Laws

IC 31-37-14

Chapter 14. Findings, Presumptions, and Evidence

IC 31-37-14-1

Burden of proof of delinquent act or crime

Sec. 1. A finding by a juvenile court that a child committed a delinquent act, or that an adult committed a crime, must be based upon proof beyond a reasonable doubt.

As added by P.L.1-1997, SEC.20.

IC 31-37-14-2

Burden of proof in proceedings to terminate parental rights

Sec. 2. A finding in a proceeding to terminate parental rights must be based upon clear and convincing evidence.

As added by P.L.1-1997, SEC.20.

IC 31-37-14-3

Burden of proof in other cases

Sec. 3. A finding not covered by section 1 or 2 of this chapter must be based upon a preponderance of the evidence.

As added by P.L.1-1997, SEC.20.

IC 31-37-6

Chapter 6. Detention Hearing

IC 31-37-6-1

Application of chapter

Sec. 1. This chapter applies only to a child alleged to be a delinquent child.

As added by P.L.1-1997, SEC.20.

IC 31-37-6-2

Time for hearing

Sec. 2. If a child is not released, a detention hearing shall be held not later than forty-eight (48) hours, excluding Saturdays, Sundays, and legal holidays, after the child is taken into custody.

As added by P.L.1-1997, SEC.20.

IC 31-37-6-6

Release; conditions; findings required for detention order

Sec. 6. (a) The juvenile court shall release the child on the child's own recognizance or to the child's parent, guardian, or custodian upon the person's written promise to bring the child before the court at a time specified. However, the court may order the child detained if the court finds probable cause to believe the child is a delinquent child and that:

- (1) the child is unlikely to appear for subsequent proceedings;
- (2) detention is essential to protect the child or the community;
- (3) the parent, guardian, or custodian:
 - (A) cannot be located; or
 - (B) is unable or unwilling to take custody of the child;
- (4) return of the child to the child's home is or would be:
 - (A) contrary to the best interests and welfare of the child; and
 - (B) harmful to the safety or health of the child; or
- (5) the child has a reasonable basis for requesting that the child not be released.

However, the findings under this subsection are not required if the child is ordered to be detained in the home of the child's parent, guardian, or custodian or is released subject to any condition listed in subsection (d).

(b) If a child is detained for a reason specified in subsection (a)(3), (a)(4), or (a)(5), the child shall be detained under IC 31-37-7-1.

(c) If a child is detained for a reason specified in subsection (a)(4), the court shall make written findings and conclusions that include the following:

- (1) The factual basis for the finding specified in subsection (a)(4).
- (2) A description of the family services available and efforts made to provide family services before removal of the child.
- (3) The reasons why efforts made to provide family services did not prevent removal of the child.
- (4) Whether efforts made to prevent removal of the child were reasonable.

(d) Whenever the court releases a child under this section, the court may impose conditions upon the child, including:

- (1) home detention;
- (2) electronic monitoring;
- (3) a curfew restriction;
- (4) a protective order;
- (5) a no contact order;
- (6) an order to comply with Indiana law; or
- (7) an order placing any other reasonable conditions on the child's actions or behavior.

(e) If the juvenile court releases a child to the child's parent, guardian, or custodian under this section, the court may impose conditions on the child's parent, guardian, or custodian to ensure:

- (1) the safety of the child's physical or mental health;
- (2) the public's physical safety; or
- (3) that any combination of subdivisions (1) and (2) is satisfied.

(f) The juvenile court shall include in any order approving or requiring detention of a child or approving temporary detention of a child taken into custody under IC 31-37-5 all findings and conclusions required under:

(1) the applicable provisions of Title IV-E of the federal Social Security Act (42 U.S.C. 670 et seq.); or

(2) any applicable federal regulation, including 45 CFR 1356.21;
as a condition of eligibility of a delinquent child for assistance under Title IV-E or any other federal law.

(g) Inclusion in a juvenile court order of language approved and recommended by the judicial conference of Indiana, in relation to:

- (1) removal from the child's home; or
- (2) detention;

of a child who is alleged to be, or adjudicated as, a delinquent child constitutes compliance with subsection (f).

As added by P.L.1-1997, SEC.20. Amended by P.L.188-1999, SEC.2; P.L.217-2001, SEC.13; P.L.1-2002, SEC.127; P.L.146-2006, SEC.55; P.L.146-2008, SEC.624.

IC 31-37-8-1

Receipt and forwarding of information concerning delinquent child; preliminary inquiry

Sec. 1. (a) A person may give an intake officer or a prosecuting attorney written information indicating that a child is a delinquent child.

(b) If the information is given to the intake officer, the intake officer shall immediately forward the information to the prosecuting attorney.

(c) If the prosecuting attorney has reason to believe the child has committed a delinquent act, the prosecuting attorney shall instruct the intake officer to make a preliminary inquiry to determine whether the interests of the public or of the child require further action.

As added by P.L.1-1997, SEC.20.

IC 31-37-8-2

Contents of preliminary inquiry

Sec. 2. A preliminary inquiry is an informal investigation into the facts and circumstances reported to the court. Whenever practicable, the preliminary inquiry should include the following information:

- (1) The child's background.
- (2) The child's current status.
- (3) The child's school performance.
- (4) If the child has been detained:

(A) efforts made to prevent removal of the child from the child's home, including the identification of any emergency situation that prevented reasonable efforts to avoid removal;

(B) whether it is in the best interests of the child to be removed from the home environment; and

(C) whether remaining in the home would be contrary to the health and welfare of the child.

As added by P.L.1-1997, SEC.20. Amended by P.L.146-2008, SEC.626.

IC 31-37-9

Chapter 9. Program of Informal Adjustment

IC 31-37-9-1

Implementation of program; submission of proposed program to department; comments and recommendations

Sec. 1. (a) After the preliminary inquiry and upon approval by the juvenile court, the intake officer may implement a program of informal adjustment if the officer has probable cause to believe that the child is a delinquent child and the child is not removed from the child's home.

(b) If the program of informal adjustment includes services requiring payment by the department under IC 31-40-1, the intake officer shall submit a copy of the proposed program to the department before submitting it to the juvenile court for approval. Upon receipt of the proposed program, the department may submit its comments and recommendations, if any, to the intake officer and the juvenile court.

As added by P.L.1-1997, SEC.20. Amended by P.L.146-2008, SEC.629.

IC 31-37-11-1

Time for filing petition alleging delinquency of child in detention

Sec. 1. If a child is in detention, a petition alleging delinquency must be filed not later than seven (7) days, excluding Saturdays, Sundays, and legal holidays, after the child is taken into custody.

As added by P.L.1-1997, SEC.20.

IC 31-37-11-2

Time for factfinding hearing or waiver hearing

Sec. 2. (a) If:

- (1) a child is in detention; and
- (2) a petition has been filed;

a fact-finding hearing or a waiver hearing must be commenced not later than twenty (20) days, excluding Saturdays, Sundays, and legal holidays, after the petition is filed.

(b) If:

- (1) a child is not in detention; and
- (2) a petition has been filed;

the hearing must be commenced not later than sixty (60) days, excluding Saturdays, Sundays, and legal holidays, after the petition is filed.

(c) A child who is ordered detained in the home of the child's parent, guardian, or custodian or who is subject to other conditions of release under IC 31-37-6-6 may not be considered as being detained for purposes of this section.

As added by P.L.1-1997, SEC.20. Amended by P.L.188-1999, SEC.3.

IC 31-37-11-3

Waiver denied; time for factfinding hearing

Sec. 3. If waiver is denied, the factfinding hearing must be commenced not later than ten (10) days, excluding Saturdays, Sundays, and legal holidays, after the denial.

As added by P.L.1-1997, SEC.20.

IC 31-37-12-2

Initial hearing; service of copy of petition and summons; notice of initial hearing

Sec. 2. (a) The juvenile court shall hold an initial hearing on each petition.

(b) The juvenile court shall set a time for the initial hearing. A summons shall be issued for the following:

- (1) The child.
- (2) The child's parent, guardian, custodian, or guardian ad litem.
- (3) Any other person necessary for the proceedings.

(c) A copy of the petition must accompany each summons. The clerk shall issue the summons under Rule 4 of the Indiana Rules of Trial Procedure.

(d) The prosecuting attorney or the probation department of the juvenile court shall provide notice of the time, place, and purpose of the initial hearing scheduled or held under this section to each foster parent or other caretaker with whom the child has been placed for temporary care under IC 31-37-5 or IC 31-37-7. The court shall:

- (1) provide a:
 - (A) person for whom a summons is required to be issued under subsection (b); and
 - (B) person required to be notified under this subsection;an opportunity to be heard; and
- (2) allow a person described in subdivision (1) to make recommendations to the court;

at the initial hearing.

As added by P.L.1-1997, SEC.20. Amended by P.L.138-2007, SEC.82.

IC 31-37-12-9

Dispositional hearing; factfinding hearing; consent

Sec. 9. (a) If a child has admitted the allegations of a petition, the juvenile court may hold the dispositional hearing immediately after the initial hearing.

(b) If a child denies the allegations, the juvenile court may hold the factfinding hearing immediately after the initial hearing.

(c) Except as provided in section 10 of this chapter:

(1) the child;

(2) the child's:

(A) counsel;

(B) guardian ad litem;

(C) parent;

(D) guardian; or

(E) custodian; and

(3) the person representing the interests of the state;

must consent to the timing of the hearing.

As added by P.L.1-1997, SEC.20.

IC 31-37-13-2

Judgment; order for predispositional report; scheduling of dispositional hearing

Sec. 2. If the court finds that a child is a delinquent child, the court shall do the following:

(1) Enter judgment accordingly.

(2) Order a predispositional report.

(3) Schedule a dispositional hearing.

As added by P.L.1-1997, SEC.20. Amended by P.L.146-2008, SEC.635.

IC 31-37-17

Chapter 17. Predispositional Report

IC 31-37-17-1

Recommendation of care, treatment, or rehabilitation of child; alternative reports

Sec. 1. (a) Upon finding that a child is a delinquent child, the juvenile court shall order a probation officer to prepare a predispositional report that contains:

(1) a statement of the needs of the child for care, treatment, rehabilitation, or placement;

(2) a recommendation for the care, treatment, rehabilitation, or placement of the child;

(3) if the recommendation includes an out-of-home placement other than a secure detention facility, information that the department requires to determine whether the child is eligible for assistance under Title IV-E of the federal Social Security Act (42 U.S.C. 670 et seq.);

(4) a statement of the department's concurrence with or its alternative proposal to the probation officer's predispositional report, as provided in section 1.4 of this chapter; and

(5) a statement of whether the child receives Medicaid.

(b) Any of the following may prepare an alternative report for consideration by the court:

(1) The child.

- (2) The child's:
 - (A) parent;
 - (B) guardian;
 - (C) guardian ad litem;
 - (D) court appointed special advocate; or
 - (E) custodian.

As added by P.L.1-1997, SEC.20. Amended by P.L.55-1997, SEC.25; P.L.146-2008, SEC.637; P.L.114-2009, SEC.2; P.L.131-2009, SEC.68; P.L.1-2010, SEC.127.

31-37-17-4

Recommendation on care, treatment, rehabilitation, or placement; risk assessment and needs assessment

Sec. 4. (a) If consistent with the safety and best interest of the child and the community, the probation officer preparing the report shall recommend care, treatment, rehabilitation, or placement that:

- (1) is:
 - (A) in the least restrictive (most family like) and most appropriate setting available; and
 - (B) close to the parents' home, consistent with the best interest and special needs of the child;
- (2) least interferes with family autonomy;
- (3) is least disruptive of family life;
- (4) imposes the least restraint on the freedom of the child and the child's parent, guardian, or custodian; and
- (5) provides a reasonable opportunity for participation by the child's parent, guardian, or custodian.

(b) If the report recommends a placement or services for which the department will be responsible for payment under IC 31-40-1, the report must include a risk assessment and needs assessment for the child. The probation officer shall submit to the department a copy of the report and the financial report prepared by the probation officer.

- (c) If the report does not include the:
 - (1) risk assessment and needs assessment required in subsection (b); or
 - (2) information required to be provided under section 1(a)(3) of this chapter;
 the department shall file a notice with the Indiana judicial center.

As added by P.L.1-1997, SEC.20. Amended by P.L.55-1997, SEC.29; P.L.146-2008, SEC.642; P.L.48-2012, SEC.71.

IC 31-37-18

Chapter 18. Dispositional Hearing

IC 31-37-18-1

Issues for consideration

Sec. 1. The juvenile court shall hold a dispositional hearing to consider the following:

- (1) Alternatives for the care, treatment, rehabilitation, or placement of the child.
 - (2) The necessity, nature, and extent of the participation by a parent, a guardian, or a custodian in the program of care, treatment, or rehabilitation for the child.
 - (3) The financial responsibility of the parent or guardian of the estate for services provided for the parent or guardian or the child.
- As added by P.L.1-1997, SEC.20. Amended by P.L.55-1997, SEC.31.*

IC 31-37-18-6

Dispositional decree; factors

Sec. 6. If consistent with the safety of the community and the best interest of the child, the juvenile court shall enter a dispositional decree that:

- (1) is:
 - (A) in the least restrictive (most family like) and most appropriate setting available; and
 - (B) close to the parents' home, consistent with the best interest and special needs of the child;
- (2) least interferes with family autonomy;
- (3) is least disruptive of family life;
- (4) imposes the least restraint on the freedom of the child and the child's parent, guardian, or custodian; and
- (5) provides a reasonable opportunity for participation by the child's parent, guardian, or custodian.

As added by P.L.1-1997, SEC.20. Amended by P.L.55-1997, SEC.33.

IC 31-37-18-9

Filings and conclusions; written findings concerning recommendations; appeal by department

Sec. 9. (a) The juvenile court shall accompany the court's dispositional decree with written findings and conclusions upon the record concerning approval, modification, or rejection of the dispositional recommendations submitted in the predispositional report, including the following specific findings:

- (1) The needs of the child for care, treatment, rehabilitation, or placement.
 - (2) The need for participation by the parent, guardian, or custodian in the plan of care for the child.
 - (3) Efforts made, if the child is removed from the child's parent, guardian, or custodian, to:
 - (A) prevent the child's removal from; or
 - (B) reunite the child with;the child's parent, guardian, or custodian.
 - (4) Family services that were offered and provided to:
 - (A) the child; or
 - (B) the child's parent, guardian, or custodian.
 - (5) The court's reasons for the disposition.
- (b) If the department does not concur with the probation officer's recommendations in the predispositional report and the juvenile court does not follow the department's alternative recommendations, the juvenile court shall:

(1) accompany the court's dispositional decree with written findings that the department's recommendations contained in the predispositional report are:

(A) unreasonable based on the facts and circumstances of the case; or

(B) contrary to the welfare and best interests of the child; and

(2) incorporate all documents referenced in the report submitted to the probation officer or to the court by the department into the order so that the documents are part of the record for any appeal the department may pursue under subsection (d).

(c) The juvenile court may incorporate a finding or conclusion from a predispositional report as a written finding or conclusion upon the record in the court's dispositional decree.

(d) If the juvenile court enters findings and a decree under subsection (b), the department may appeal the juvenile court's decree under any available procedure provided by the Indiana Rules of Trial Procedure or Indiana Rules of Appellate Procedure to allow any disputes arising under this section to be decided in an expeditious manner.

(e) If the department prevails on appeal, the department shall pay the following costs and expenses incurred by or on behalf of the child before the date of the final decision:

(1) any programs or services implemented during the appeal initiated under subsection (d), other than the cost of an out-of-home placement ordered by the juvenile court; and

(2) any out-of-home placement ordered by the juvenile court and implemented after entry of the dispositional decree or modification order, if the juvenile court has made written findings that the placement is an emergency required to protect the health and welfare of the child.

If the court has not made written findings that the placement is an emergency, the department shall file a notice with the Indiana judicial center.

As added by P.L.1-1997, SEC.20. Amended by P.L.55-1997, SEC.34; P.L.146-2006, SEC.56; P.L.146-2008, SEC.646; P.L.131-2009, SEC.70; P.L.48-2012, SEC.72.

IC 31-37-19

Chapter 19. Dispositional Decrees

IC 31-37-19-1

Entry of dispositional decrees; placement in foster family home or another facility; findings and conclusions; costs

Sec. 1. (a) Subject to section 6.5 of this chapter, if a child is a delinquent child under IC 31-37-2, the juvenile court may enter one (1) or more of the following dispositional decrees:

(1) Order supervision of the child by the probation department.

(2) Order the child to receive outpatient treatment:

(A) at a social service agency or a psychological, a psychiatric, a medical, or an educational facility; or

(B) from an individual practitioner.

(3) Remove the child from the child's home and place the child in another home or shelter care facility. Placement under this subdivision includes authorization to control and discipline the child.

(4) Award wardship to a:

(A) person, other than the department; or

(B) shelter care facility.

- (5) Partially or completely emancipate the child under section 27 of this chapter.
- (6) Order:
 - (A) the child; or
 - (B) the child's parent, guardian, or custodian;
 to receive family services.
- (7) Order a person who is a party to refrain from direct or indirect contact with the child.
- (b) If the child is removed from the child's home and placed in a foster family home or another facility, the juvenile court shall:
 - (A) approve a permanency plan for the child;
 - (B) find whether or not reasonable efforts were made to prevent or eliminate the need for the removal;
 - (C) designate responsibility for the placement and care of the child with the probation department; and
 - (D) find whether it:
 - (i) serves the best interests of the child to be removed; and
 - (ii) would be contrary to the health and welfare of the child for the child to remain in the home.
- (c) If a dispositional decree under this section:
 - (1) orders or approves removal of a child from the child's home or awards wardship of the child to a:
 - (A) person other than the department; or
 - (B) shelter care facility; and
 - (2) is the first court order in the delinquent child proceeding that authorizes or approves removal of the child from the child's parent, guardian, or custodian;
 the court shall include in the decree the appropriate findings and conclusions described in IC 31-37-6-6(f) and IC 31-37-6-6(g).

(d) If the juvenile court orders supervision of the child by the probation department under subsection (a)(1), the child or the child's parent, guardian, or custodian is responsible for any costs resulting from the participation in a rehabilitative service or educational class provided by the probation department. Any costs collected for services provided by the probation department shall be deposited in the county supplemental juvenile probation services fund.

As added by P.L.1-1997, SEC.20. Amended by P.L.70-2004, SEC.25; P.L.145-2006, SEC.345; P.L.146-2006, SEC.57; P.L.146-2008, SEC.647; P.L.147-2012, SEC.5.

IC 31-37-19-1.5

Completion of case plan; copies of case plan; elements included in case plan; review and update of case plan

Sec. 1.5. (a) This section applies to a delinquent child if the child is placed in an out-of-home residence or facility that is not a secure detention facility.

(b) The probation department, after negotiating with the child's parent, guardian, or custodian, shall complete the child's case plan not later than sixty (60) days after the date of the child's first placement that the probation department requests to be paid for by the department.

(c) A copy of the completed case plan shall be sent to the department, to the child's parent, guardian, or custodian, and to an agency having the legal responsibility or authorization to care for, treat, or supervise the child not later than ten (10) days after the plan's completion.

(d) A child's case plan must be in a form prescribed by the department that meets the specifications set by 45 CFR 1356.21, as amended. The case plan must include a description and discussion of the following:

(1) A permanency plan for the child and an estimated date for achieving the goal of the plan.

(2) The appropriate placement for the child based on the child's special needs and best interests.

(3) The least restrictive family-like setting that is close to the home of the child's parent, custodian, or guardian if out-of-home placement is implemented or recommended, including consideration of possible placement with any suitable and willing relative caretaker, before considering other out-of-home placements for the child.

(4) Family services recommended for the child, parent, guardian, or custodian.

(5) Efforts already made to provide family services to the child, parent, guardian, or custodian.

(6) Efforts that will be made to provide family services that are ordered by the court.

(7) A plan for ensuring the educational stability of the child while in foster care that includes assurances that the:

(A) placement of the child in foster care considers the appropriateness of the current educational setting of the child and the proximity to the school where the child is presently enrolled; and

(B) department has coordinated with local educational agencies to ensure:

(i) the child remains in the school where the child is enrolled at the time of removal; or

(ii) immediate, appropriate enrollment of the child in a different school if remaining in the same school is not in the best interests of the child.

(e) Each caretaker of a child and the probation department shall cooperate in the development of the case plan for the child. The probation department shall discuss with at least one (1) foster parent or other caretaker of a child the role of the substitute caretaker or facility regarding the following:

(1) Rehabilitation of the child and the child's parents, guardians, and custodians.

(2) Visitation arrangements.

(3) Services required to meet the special needs of the child.

(f) The case plan must be reviewed and updated by the probation department at least once every one hundred eighty (180) days.

As added by P.L.146-2008, SEC.648. Amended by P.L.131-2009, SEC.71.

IC 31-37-20-2

Periodic review of case

Sec. 2. (a) The court shall hold a formal hearing:

(1) every twelve (12) months after:

(A) the date of the original dispositional decree; or

(B) a delinquent child was removed from the child's parent, guardian, or custodian;
whichever occurs first; or

(2) more often if ordered by the juvenile court.

(b) The court shall determine whether the dispositional decree should be modified and whether the present placement is in the best interest of the child. The court, in making the court's determination, may consider the following:

(1) The services that have been provided or offered to a parent, guardian, or custodian to facilitate a reunion.

(2) The extent to which the parent, guardian, or custodian has enhanced the ability to fulfill parental obligations.

(3) The extent to which the parent, guardian, or custodian has visited the child, including the reasons for infrequent visitation.

(4) The extent to which the parent, guardian, or custodian has cooperated with the probation department.

(5) The child's recovery from any injuries suffered before removal.

(6) Whether additional services are required for the child or the child's parent, guardian, or custodian and, if so, the nature of the services.

(7) The extent to which the child has been rehabilitated.

(c) A review of the dispositional decree will be held at least once every six (6) months, or more often, if ordered by the court. At the review, the court shall determine whether or not the probation department has made reasonable efforts to finalize a permanency plan for the child, if required under IC 31-37-19-1.5.

As added by P.L.1-1997, SEC.20. Amended by P.L.145-2006, SEC.349; P.L.146-2008, SEC.655.

IC 31-37-20-3

Formal hearing on continued jurisdiction; periodic jurisdiction review; referral to permanency roundtable

Sec. 3. (a) The court shall hold a formal hearing on the question of continued jurisdiction:

(1) every eighteen (18) months after:

(A) the date of the original dispositional decree; or

(B) a delinquent child was removed from the child's parent, guardian, or custodian;
whichever comes first; or

(2) more often if ordered by the juvenile court.

(b) The state must show that jurisdiction should continue by proving that the objectives of the dispositional decree have not been accomplished and that a continuation of the decree with or without modifications has a probability of success.

(c) If the state does not sustain the state's burden for continued jurisdiction, the court may:

(1) authorize a petition for termination of the parent-child relationship; or

(2) discharge the child or the child's parent, guardian, or custodian.

(d) A jurisdictional review of the dispositional decree, including a review of the child's permanency plan, if required under IC 31-37-19-1.5, shall be held at least once every twelve (12) months.

(e) The department shall refer a child's permanency plan to a permanency roundtable before a jurisdictional review under subsection (d). The permanency roundtable may make recommendations regarding a permanency plan, and the recommendations must be included in a report under section 4 of this chapter.

As added by P.L.1-1997, SEC.20. Amended by P.L.146-2008, SEC.656; P.L.48-2012, SEC.73.

IC 31-37-20-4

Progress report required for case review or continued jurisdiction

Sec. 4. Before a hearing under section 2 or 3 of this chapter, the probation department shall prepare a report in accordance with IC 31-37-21 on the progress made in implementing the dispositional decree. A report under this section shall also include recommendations from the permanency roundtable under section 3 of this chapter.

As added by P.L.1-1997, SEC.20. Amended by P.L.145-2006, SEC.350; P.L.146-2008, SEC.657; P.L.48-2012, SEC.

IC 31-37-22-4.5

Placement of delinquent child in out-of-home residence or facility; case plan

Sec. 4.5. (a) This section applies to a delinquent child if the child is placed in an out-of-home residence or facility that is not a secure detention facility.

(b) The probation department, after negotiating with the child's parent, guardian, or custodian, shall complete the child's case plan not later than sixty (60) days after the date of the child's first placement that the probation department requests to be paid for by the department.

(c) A copy of the completed case plan shall be sent to the department, to the child's parent, guardian, or custodian, and to an agency having the legal responsibility or authorization to care for, treat, or supervise the child not later than ten (10) days after the plan's completion.

(d) A child's case plan must be in a form prescribed by the department that meets the specifications set by 45 CFR 1356.21, as amended. The case plan must include a description and discussion of the following:

(1) A permanency plan for the child and an estimated date for achieving the goal of the plan.

(2) The appropriate placement for the child based on the child's special needs and best interests.

(3) The least restrictive family like setting that is close to the home of the child's parent, custodian, or guardian if out-of-home placement is implemented or recommended, including consideration of possible placement with any suitable and willing relative caretaker, before considering other out-of-home placements for the child.

(4) Family services recommended for the child, parent, guardian, or custodian.

(5) Efforts already made to provide family services to the child, parent, guardian, or

custodian.

(6) Efforts that will be made to provide family services that are ordered by the court.

(7) A plan for ensuring the educational stability of the child while in foster care that includes assurances that the:

(A) placement of the child in foster care considers the appropriateness of the current educational setting of the child and the proximity to the school where the child presently is enrolled; and

(B) department has coordinated with local educational agencies to ensure:

(i) the child remains in the school where the child is enrolled at the time of removal; or

(ii) immediate and appropriate enrollment of the child in a different school, including arrangements for the transfer of the child's school records to the new school, if remaining in the same school is not in the best interests of the child.

(e) The probation department and each caretaker of a child shall cooperate in the development of the case plan for the child. The probation department shall discuss with at least one (1) foster parent or other caretaker of a child the role of the substitute caretaker or facility regarding the following:

(1) Rehabilitation of the child and the child's parents, guardians, and custodians.

(2) Visitation arrangements.

(3) Services required to meet the special needs of the child.

(f) The case plan must be reviewed and updated by the probation department at least once every one hundred eighty (180) days.

As added by P.L.131-2009, SEC.72.

Criminal Law

IC 35-42-4

Chapter 4. Sex Crimes

IC 35-42-4-0.1

Repealed

(Repealed by P.L.63-2012, SEC.49.)

IC 35-42-4-1

Rape

Sec. 1. (a) Except as provided in subsection (b), a person who knowingly or intentionally has sexual intercourse with a member of the opposite sex when:

(1) the other person is compelled by force or imminent threat of force;

(2) the other person is unaware that the sexual intercourse is occurring; or
(3) the other person is so mentally disabled or deficient that consent to sexual intercourse cannot be given;
commits rape, a Class B felony.

(b) An offense described in subsection (a) is a Class A felony if:

- (1) it is committed by using or threatening the use of deadly force;
- (2) it is committed while armed with a deadly weapon;
- (3) it results in serious bodily injury to a person other than a defendant; or
- (4) the commission of the offense is facilitated by furnishing the victim, without the victim's knowledge, with a drug (as defined in IC 16-42-19-2(1)) or a controlled substance (as defined in IC 35-48-1-9) or knowing that the victim was furnished with the drug or controlled substance without the victim's knowledge.

As added by Acts 1976, P.L.148, SEC.2. Amended by Acts 1977, P.L.340, SEC.36; P.L.320-1983, SEC.23; P.L.16-1984, SEC.19; P.L.297-1989, SEC.1; P.L.31-1998, SEC.3.

IC 35-42-4-2

Criminal deviate conduct

Sec. 2. (a) A person who knowingly or intentionally causes another person to perform or submit to deviate sexual conduct when:

- (1) the other person is compelled by force or imminent threat of force;
 - (2) the other person is unaware that the conduct is occurring; or
 - (3) the other person is so mentally disabled or deficient that consent to the conduct cannot be given;
- commits criminal deviate conduct, a Class B felony.

(b) An offense described in subsection (a) is a Class A felony if:

- (1) it is committed by using or threatening the use of deadly force;
- (2) it is committed while armed with a deadly weapon;
- (3) it results in serious bodily injury to any person other than a defendant; or
- (4) the commission of the offense is facilitated by furnishing the victim, without the victim's knowledge, with a drug (as defined in IC 16-42-19-2(1)) or a controlled substance (as defined in IC 35-48-1-9) or knowing that the victim was furnished with the drug or controlled substance without the victim's knowledge.

As added by Acts 1976, P.L.148, SEC.2. Amended by Acts 1977, P.L.340, SEC.37; P.L.320-1983, SEC.24; P.L.183-1984, SEC.3; P.L.31-1998, SEC.4.

IC 35-42-4-3

Child molesting

Sec. 3. (a) A person who, with a child under fourteen (14) years of age, performs or submits to sexual intercourse or deviate sexual conduct commits child molesting, a Class B felony. However, the offense is a Class A felony if:

- (1) it is committed by a person at least twenty-one (21) years of age;

(2) it is committed by using or threatening the use of deadly force or while armed with a deadly weapon;

(3) it results in serious bodily injury; or

(4) the commission of the offense is facilitated by furnishing the victim, without the victim's knowledge, with a drug (as defined in IC 16-42-19-2(1)) or a controlled substance (as defined in IC 35-48-1-9) or knowing that the victim was furnished with the drug or controlled substance without the victim's knowledge.

(b) A person who, with a child under fourteen (14) years of age, performs or submits to any fondling or touching, of either the child or the older person, with intent to arouse or to satisfy the sexual desires of either the child or the older person, commits child molesting, a Class C felony. However, the offense is a Class A felony if:

(1) it is committed by using or threatening the use of deadly force;

(2) it is committed while armed with a deadly weapon; or

(3) the commission of the offense is facilitated by furnishing the victim, without the victim's knowledge, with a drug (as defined in IC 16-42-19-2(1)) or a controlled substance (as defined in IC 35-48-1-9) or knowing that the victim was furnished with the drug or controlled substance without the victim's knowledge.

(c) It is a defense that the accused person reasonably believed that the child was sixteen (16) years of age or older at the time of the conduct, unless:

(1) the offense is committed by using or threatening the use of deadly force or while armed with a deadly weapon;

(2) the offense results in serious bodily injury; or

(3) the commission of the offense is facilitated by furnishing the victim, without the victim's knowledge, with a drug (as defined in IC 16-42-19-2(1)) or a controlled substance (as defined in IC 35-48-1-9) or knowing that the victim was furnished with the drug or controlled substance without the victim's knowledge.

As added by Acts 1976, P.L.148, SEC.2. Amended by Acts 1977, P.L.340, SEC.38; Acts 1978, P.L.82, SEC.2; Acts 1981, P.L.301, SEC.1; P.L.79-1994, SEC.12; P.L.33-1996, SEC.8; P.L.216-1996, SEC.18; P.L.31-1998, SEC.5; P.L.216-2007, SEC.42.

IC 35-42-4-4

Child exploitation; possession of child pornography; exemptions; defenses

Sec. 4. (a) The following definitions apply throughout this section:

(1) "Disseminate" means to transfer possession for free or for a consideration.

(2) "Matter" has the same meaning as in IC 35-49-1-3.

(3) "Performance" has the same meaning as in IC 35-49-1-7.

(4) "Sexual conduct" means sexual intercourse, deviate sexual conduct, exhibition of the uncovered genitals intended to satisfy or arouse the sexual desires of any person, sadomasochistic abuse, sexual intercourse or deviate sexual conduct with an animal, or any fondling or touching of a child by another person or of another person by a child intended to

arouse or satisfy the sexual desires of either the child or the other person.

(b) A person who knowingly or intentionally:

(1) manages, produces, sponsors, presents, exhibits, photographs, films, videotapes, or creates a digitized image of any performance or incident that includes sexual conduct by a child under eighteen (18) years of age;

(2) disseminates, exhibits to another person, offers to disseminate or exhibit to another person, or sends or brings into Indiana for dissemination or exhibition matter that depicts or describes sexual conduct by a child under eighteen (18) years of age; or

(3) makes available to another person a computer, knowing that the computer's fixed drive or peripheral device contains matter that depicts or describes sexual conduct by a child less than eighteen (18) years of age;

commits child exploitation, a Class C felony.

(c) A person who knowingly or intentionally possesses:

(1) a picture;

(2) a drawing;

(3) a photograph;

(4) a negative image;

(5) undeveloped film;

(6) a motion picture;

(7) a videotape;

(8) a digitized image; or

(9) any pictorial representation;

that depicts or describes sexual conduct by a child who the person knows is less than sixteen (16) years of age or who appears to be less than sixteen (16) years of age, and that lacks serious literary, artistic, political, or scientific value commits possession of child pornography, a Class D felony.

(d) Subsections (b) and (c) do not apply to a bona fide school, museum, or public library that qualifies for certain property tax exemptions under IC 6-1.1-10, or to an employee of such a school, museum, or public library acting within the scope of the employee's employment when the possession of the listed materials is for legitimate scientific or educational purposes.

(e) It is a defense to a prosecution under this section that:

(1) the person is a school employee; and

(2) the acts constituting the elements of the offense were performed solely within the scope of the person's employment as a school employee.

(f) Except as provided in subsection (g), it is a defense to a prosecution under subsection (b)(1), subsection (b)(2), or subsection (c) if all of the following apply:

(1) A cellular telephone, another wireless or cellular communications device, or a social networking web site was used to possess, produce, or disseminate the image.

(2) The defendant is not more than four (4) years older or younger than the person who is depicted in the image or who received the image.

(3) The relationship between the defendant and the person who received the image or who is depicted in the image was a dating relationship or an ongoing personal relationship. For purposes of this subdivision, the term "ongoing personal relationship" does not include a family relationship.

(4) The crime was committed by a person less than twenty-two (22) years of age.

(5) The person receiving the image or who is depicted in the image acquiesced in the defendant's conduct.

(g) The defense to a prosecution described in subsection (f) does not apply if:

(1) the person who receives the image disseminates it to a person other than the person:

(A) who sent the image; or

(B) who is depicted in the image;

(2) the image is of a person other than the person who sent the image or received the image;
or

(3) the dissemination of the image violates:

(A) a protective order to prevent domestic or family violence issued under IC 34-26-5 (or, if the order involved a family or household member, under IC 34-26-2 or IC 34-4-5.1-5 before their repeal);

(B) an ex parte protective order issued under IC 34-26-5 (or, if the order involved a family or household member, an emergency order issued under IC 34-26-2 or IC 34-4-5.1 before their repeal);

(C) a workplace violence restraining order issued under IC 34-26-6;

(D) a no contact order in a dispositional decree issued under IC 31-34-20-1, IC 31-37-19-1, or IC 31-37-5-6 (or IC 31-6-4-15.4 or IC 31-6-4-15.9 before their repeal) or an order issued under IC 31-32-13 (or IC 31-6-7-14 before its repeal) that orders the person to refrain from direct or indirect contact with a child in need of services or a delinquent child;

(E) a no contact order issued as a condition of pretrial release, including release on bail or personal recognizance, or pretrial diversion, and including a no contact order issued under IC 35-33-8-3.6;

(F) a no contact order issued as a condition of probation;

(G) a protective order to prevent domestic or family violence issued under IC 31-15-5 (or IC 31-16-5 or IC 31-1-11.5-8.2 before their repeal);

(H) a protective order to prevent domestic or family violence issued under IC 31-14-16-1 in a paternity action;

(I) a no contact order issued under IC 31-34-25 in a child in need of services proceeding or under IC 31-37-25 in a juvenile delinquency proceeding;

(J) an order issued in another state that is substantially similar to an order described in clauses (A) through (I);

(K) an order that is substantially similar to an order described in clauses (A) through (I) and is issued by an Indian:

(i) tribe;

- (ii) band;
 - (iii) pueblo;
 - (iv) nation; or
 - (v) organized group or community, including an Alaska Native village or regional or village corporation as defined in or established under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.);
- that is recognized as eligible for the special programs and services provided by the United States to Indians because of their special status as Indians;
- (L) an order issued under IC 35-33-8-3.2; or
 - (M) an order issued under IC 35-38-1-30.

As added by Acts 1978, P.L.148, SEC.5. Amended by P.L.325-1983, SEC.1; P.L.206-1986, SEC.1; P.L.37-1990, SEC.25; P.L.59-1995, SEC.3; P.L.216-1996, SEC.19; P.L.3-2002, SEC.2; P.L.216-2007, SEC.43; P.L.180-2011, SEC.3; P.L.6-2012, SEC.226.

IC 35-42-4-5

Vicarious sexual gratification; sexual conduct in presence of a minor

Sec. 5. (a) A person eighteen (18) years of age or older who knowingly or intentionally directs, aids, induces, or causes a child under the age of sixteen (16) to touch or fondle himself or another child under the age of sixteen (16) with intent to arouse or satisfy the sexual desires of a child or the older person commits vicarious sexual gratification, a Class D felony. However, the offense is:

- (1) a Class C felony if a child involved in the offense is under the age of fourteen (14);
- (2) a Class B felony if:

(A) the offense is committed by using or threatening the use of deadly force or while armed with a deadly weapon; or

(B) the commission of the offense is facilitated by furnishing the victim, without the victim's knowledge, with a drug (as defined in IC 16-42-19-2(1)) or a controlled substance (as defined in IC 35-48-1-9) or knowing that the victim was furnished with the drug or controlled substance without the victim's knowledge; and

- (3) a Class A felony if it results in serious bodily injury.

(b) A person eighteen (18) years of age or older who knowingly or intentionally directs, aids, induces, or causes a child under the age of sixteen (16) to:

- (1) engage in sexual intercourse with another child under sixteen (16) years of age;
- (2) engage in sexual conduct with an animal other than a human being; or
- (3) engage in deviate sexual conduct with another person;

with intent to arouse or satisfy the sexual desires of a child or the older person commits vicarious sexual gratification, a Class C felony. However, the offense is a Class B felony if any child involved in the offense is less than fourteen (14) years of age, and it is a Class A felony if the offense is committed by using or threatening the use of deadly force, if it is committed while armed with a deadly weapon, if it results in serious bodily injury, or if the commission of the offense is facilitated by furnishing the victim, without the victim's knowledge, with a drug (as

defined in IC 16-42-19-2(1)) or a controlled substance (as defined in IC 35-48-1-9) or knowing that the victim was furnished with the drug or controlled substance without the victim's knowledge.

(c) A person eighteen (18) years of age or older who knowingly or intentionally:

- (1) engages in sexual intercourse;
- (2) engages in deviate sexual conduct; or
- (3) touches or fondles the person's own body;

in the presence of a child less than fourteen (14) years of age with the intent to arouse or satisfy the sexual desires of the child or the older person commits performing sexual conduct in the presence of a minor, a Class D felony.

As added by P.L.183-1984, SEC.4. Amended by P.L.79-1994, SEC.13; P.L.31-1998, SEC.6; P.L.118-2002, SEC.1; P.L.123-2003, SEC.1.

IC 35-42-4-6

Child solicitation

Sec. 6. (a) As used in this section, "solicit" means to command, authorize, urge, incite, request, or advise an individual:

- (1) in person;
- (2) by telephone;
- (3) in writing;
- (4) by using a computer network (as defined in IC 35-43-2-3(a));
- (5) by advertisement of any kind; or
- (6) by any other means;

to perform an act described in subsection (b) or (c).

(b) A person eighteen (18) years of age or older who knowingly or intentionally solicits a child under fourteen (14) years of age, or an individual the person believes to be a child under fourteen (14) years of age, to engage in:

- (1) sexual intercourse;
- (2) deviate sexual conduct; or
- (3) any fondling or touching intended to arouse or satisfy the sexual desires of either the child or the older person;

commits child solicitation, a Class D felony. However, the offense is a Class C felony if it is committed by using a computer network (as defined in IC 35-43-2-3(a)), and a Class B felony if the person commits the offense by using a computer network (as defined in IC 35-43-2-3(a)) and has a previous unrelated conviction for committing the offense by using a computer network (as defined in IC 35-43-2-3(a)).

(c) A person at least twenty-one (21) years of age who knowingly or intentionally solicits a child at least fourteen (14) years of age but less than sixteen (16) years of age, or an individual the person believes to be a child at least fourteen (14) years of age but less than sixteen (16) years of age, to engage in:

- (1) sexual intercourse;
- (2) deviate sexual conduct; or
- (3) any fondling or touching intended to arouse or satisfy the sexual desires of either the child or the older person;

commits child solicitation, a Class D felony. However, the offense is a Class C felony if it is committed by using a computer network (as defined in IC 35-43-2-3(a)), and a Class B felony if the person commits the offense by using a computer network (as defined in IC 35-43-2-3(a)) and has a previous unrelated conviction for committing the offense by using a computer network (as defined in IC 35-43-2-3(a)).

(d) In a prosecution under this section, including a prosecution for attempted solicitation, the state is not required to prove that the person solicited the child to engage in an act described in subsection (b) or (c) at some immediate time.

As added by P.L.183-1984, SEC.5. Amended by P.L.11-1994, SEC.16; P.L.79-1994, SEC.14; P.L.216-1996, SEC.20; P.L.118-2002, SEC.2; P.L.124-2005, SEC.1; P.L.216-2007, SEC.44.

IC 35-42-4-7

Child seduction

Sec. 7. (a) As used in this section, "adoptive parent" has the meaning set forth in IC 31-9-2-6.

(b) As used in this section, "adoptive grandparent" means the parent of an adoptive parent.

(c) As used in this section, "charter school" has the meaning set forth in IC 20-18-2-2.5.

(d) As used in this section, "child care worker" means a person who:

- (1) provides care, supervision, or instruction to a child within the scope of the person's employment in a shelter care facility;
- (2) is employed by a:
 - (A) school corporation;
 - (B) charter school;
 - (C) nonpublic school; or
 - (D) special education cooperative;attended by a child who is the victim of a crime under this chapter; or
- (3) is:
 - (A) affiliated with a:
 - (i) school corporation;
 - (ii) charter school;
 - (iii) nonpublic school; or
 - (iv) special education cooperative;attended by a child who is the victim of a crime under this chapter, regardless of how or whether the person is compensated;
 - (B) in a position of trust in relation to a child who attends the school or cooperative;
 - (C) engaged in the provision of care or supervision to a child who attends the school or

cooperative; and

(D) at least four (4) years older than the child who is the victim of a crime under this chapter.

The term does not include a student who attends the school or cooperative.

(e) As used in this section, "custodian" means any person who resides with a child and is responsible for the child's welfare.

(f) As used in this section, "military recruiter" means a member of the armed forces of the United States (as defined in IC 20-33-10-2) or the Indiana National Guard whose primary job function, classification, or specialty is recruiting individuals to enlist with the armed forces of the United States or the Indiana National Guard.

(g) As used in this section, "nonpublic school" has the meaning set forth in IC 20-18-2-12.

(h) As used in this section, "school corporation" has the meaning set forth in IC 20-18-2-16.

(i) As used in this section, "special education cooperative" has the meaning set forth in IC 20-35-5-1.

(j) As used in this section, "stepparent" means an individual who is married to a child's custodial or noncustodial parent and is not the child's adoptive parent.

(k) If a person who:

(1) is at least eighteen (18) years of age; and

(2) is:

(A) the:

(i) guardian, adoptive parent, adoptive grandparent, custodian, or stepparent of; or

(ii) child care worker for; or

(B) a military recruiter who is attempting to enlist;

a child at least sixteen (16) years of age but less than eighteen (18) years of age; engages with the child in sexual intercourse, deviate sexual conduct (as defined in IC 35-31.5-2-94), or any fondling or touching with the intent to arouse or satisfy the sexual desires of either the child or the adult, the person commits child seduction, a Class D felony.

As added by P.L.158-1987, SEC.4. Amended by P.L.1-1997, SEC.148; P.L.71-1998, SEC.5; P.L.228-2001, SEC.5; P.L.161-2003, SEC.10; P.L.1-2005, SEC.228; P.L.125-2009, SEC.7; P.L.114-2012, SEC.138.

IC 35-42-4-8

Sexual battery

Sec. 8. (a) A person who, with intent to arouse or satisfy the person's own sexual desires or the sexual desires of another person:

(1) touches another person when that person is:

(A) compelled to submit to the touching by force or the imminent threat of force; or

(B) so mentally disabled or deficient that consent to the touching cannot be given; or

(2) touches another person's genitals, pubic area, buttocks, or female breast when that person is unaware that the touching is occurring;

commits sexual battery, a Class D felony.

(b) An offense described in subsection (a) is a Class C felony if:

(1) it is committed by using or threatening the use of deadly force;

(2) it is committed while armed with a deadly weapon; or

(3) the commission of the offense is facilitated by furnishing the victim, without the victim's knowledge, with a drug (as defined in IC 16-42-19-2(1)) or a controlled substance (as defined in IC 35-48-1-9) or knowing that the victim was furnished with the drug or controlled substance without the victim's knowledge.

As added by P.L.322-1987, SEC.2. Amended by P.L.31-1998, SEC.7; P.L.72-2012, SEC.4.

IC 35-42-4-9

Sexual misconduct with a minor

Sec. 9. (a) A person at least eighteen (18) years of age who, with a child at least fourteen (14) years of age but less than sixteen (16) years of age, performs or submits to sexual intercourse or deviate sexual conduct commits sexual misconduct with a minor, a Class C felony. However, the offense is:

(1) a Class B felony if it is committed by a person at least twenty-one (21) years of age; and

(2) a Class A felony if it is committed by using or threatening the use of deadly force, if it is committed while armed with a deadly weapon, if it results in serious bodily injury, or if the commission of the offense is facilitated by furnishing the victim, without the victim's knowledge, with a drug (as defined in IC 16-42-19-2(1)) or a controlled substance (as defined in IC 35-48-1-9) or knowing that the victim was furnished with the drug or controlled substance without the victim's knowledge.

(b) A person at least eighteen (18) years of age who, with a child at least fourteen (14) years of age but less than sixteen (16) years of age, performs or submits to any fondling or touching, of either the child or the older person, with intent to arouse or to satisfy the sexual desires of either the child or the older person, commits sexual misconduct with a minor, a Class D felony.

However, the offense is:

(1) a Class C felony if it is committed by a person at least twenty-one (21) years of age; and

(2) a Class B felony if it is committed by using or threatening the use of deadly force, while armed with a deadly weapon, or if the commission of the offense is facilitated by furnishing the victim, without the victim's knowledge, with a drug (as defined in IC 16-42-19-2(1)) or a controlled substance (as defined in IC 35-48-1-9) or knowing that the victim was furnished with the drug or controlled substance without the victim's knowledge.

(c) It is a defense that the accused person reasonably believed that the child was at least sixteen (16) years of age at the time of the conduct. However, this subsection does not apply to an offense described in subsection (a)(2) or (b)(2).

(d) It is a defense that the child is or has ever been married. However, this subsection does not apply to an offense described in subsection (a)(2) or (b)(2).

(e) It is a defense to a prosecution under this section if all the following apply:

(1) The person is not more than four (4) years older than the victim.

(2) The relationship between the person and the victim was a dating relationship or an ongoing personal relationship. The term "ongoing personal relationship" does not include a family relationship.

(3) The crime:

(A) was not committed by a person who is at least twenty-one (21) years of age;

(B) was not committed by using or threatening the use of deadly force;

(C) was not committed while armed with a deadly weapon;

(D) did not result in serious bodily injury;

(E) was not facilitated by furnishing the victim, without the victim's knowledge, with a drug (as defined in IC 16-42-19-2(1)) or a controlled substance (as defined in IC 35-48-1-9) or knowing that the victim was furnished with the drug or controlled substance without the victim's knowledge; and

(F) was not committed by a person having a position of authority or substantial influence over the victim.

(4) The person has not committed another sex offense (as defined in IC 11-8-8-5.2) (including a delinquent act that would be a sex offense if committed by an adult) against any other person.

As added by P.L.79-1994, SEC.15. Amended by P.L.33-1996, SEC.9; P.L.216-1996, SEC.21; P.L.31-1998, SEC.8; P.L.266-2003, SEC.1; P.L.216-2007, SEC.45.

IC 35-42-4-10

Unlawful employment near children

Sec. 10. (a) As used in this section, "offender against children" means a person who is an offender against children under IC 35-42-4-11.

(b) As used in this section, "sexually violent predator" means a person who is a sexually violent predator under IC 35-38-1-7.5.

(c) A sexually violent predator or an offender against children who knowingly or intentionally works for compensation or as a volunteer:

(1) on school property;

(2) at a youth program center; or

(3) at a public park;

commits unlawful employment near children by a sexual predator, a Class D felony. However, the offense is a Class C felony if the person has a prior unrelated conviction based on the person's failure to comply with any requirement imposed on an offender under IC 11-8-8.

As added by P.L.6-2006, SEC.3; P.L.140-2006, SEC.31 and P.L.173-2006, SEC.31. Amended by P.L.1-2007, SEC.231; P.L.216-2007, SEC.46.

IC 35-42-4-11

Sex offender residency restrictions

Sec. 11. (a) As used in this section, and except as provided in subsection (d), "offender against children" means a person required to register as a sex or violent offender under IC 11-8-8

who has been:

(1) found to be a sexually violent predator under IC 35-38-1-7.5; or

(2) convicted of one (1) or more of the following offenses:

(A) Child molesting (IC 35-42-4-3).

(B) Child exploitation (IC 35-42-4-4(b)).

(C) Child solicitation (IC 35-42-4-6).

(D) Child seduction (IC 35-42-4-7).

(E) Kidnapping (IC 35-42-3-2), if the victim is less than eighteen (18) years of age and the person is not the child's parent or guardian.

(F) Attempt to commit or conspiracy to commit an offense listed in clauses (A) through (E).

(G) An offense in another jurisdiction that is substantially similar to an offense described in clauses (A) through (F).

A person is an offender against children by operation of law if the person meets the conditions described in subdivision (1) or (2) at any time.

(b) As used in this section, "reside" means to spend more than three (3) nights in:

(1) a residence; or

(2) if the person does not reside in a residence, a particular location;

in any thirty (30) day period.

(c) An offender against children who knowingly or intentionally:

(1) resides within one thousand (1,000) feet of:

(A) school property, not including property of an institution providing post-secondary education;

(B) a youth program center; or

(C) a public park; or

(2) establishes a residence within one (1) mile of the residence of the victim of the offender's sex offense;

commits a sex offender residency offense, a Class D felony.

(d) This subsection does not apply to an offender against children who has two (2) or more unrelated convictions for an offense described in subsection (a). A person who is an offender against children may petition the court to consider whether the person should no longer be considered an offender against children. The person may file a petition under this subsection not earlier than ten (10) years after the person is released from incarceration, probation, or parole, whichever occurs last. A person may file a petition under this subsection not more than one (1) time per year. A court may dismiss a petition filed under this subsection or conduct a hearing to determine if the person should no longer be considered an offender against children. If the court conducts a hearing, the court shall appoint two (2) psychologists or psychiatrists who have expertise in criminal behavioral disorders to evaluate the person and testify at the hearing. After conducting the hearing and considering the testimony of the two (2) psychologists or psychiatrists, the court shall determine whether the person should no longer be considered an

offender against children. If a court finds that the person should no longer be considered an offender against children, the court shall send notice to the department of correction that the person is no longer considered an offender against children.

As added by P.L.6-2006, SEC.8. Amended by P.L.140-2006, SEC.32 and P.L.173-2006, SEC.32; P.L.216-2007, SEC.47.

IC 35-42-4-12

Sex offender internet offense

Sec. 12. (a) This section does not apply to a person to whom all of the following apply:

(1) The person is not more than:

(A) four (4) years older than the victim if the offense was committed after June 30, 2007;

or

(B) five (5) years older than the victim if the offense was committed before July 1, 2007.

(2) The relationship between the person and the victim was a dating relationship or an ongoing personal relationship. The term "ongoing personal relationship" does not include a family relationship.

(3) The crime:

(A) was not committed by a person who is at least twenty-one (21) years of age;

(B) was not committed by using or threatening the use of deadly force;

(C) was not committed while armed with a deadly weapon;

(D) did not result in serious bodily injury;

(E) was not facilitated by furnishing the victim, without the victim's knowledge, with a drug (as defined in IC 16-42-19-2(1)) or a controlled substance (as defined in IC 35-48-1-9) or knowing that the victim was furnished with the drug or controlled substance without the victim's knowledge; and

(F) was not committed by a person having a position of authority or substantial influence over the victim.

(b) This section applies only to a person required to register as a sex or violent offender under IC 11-8-8 who has been:

(1) found to be a sexually violent predator under IC 35-38-1-7.5; or

(2) convicted of one (1) or more of the following offenses:

(A) Child molesting (IC 35-42-4-3).

(B) Child exploitation (IC 35-42-4-4(b)).

(C) Possession of child pornography (IC 35-42-4-4(c)).

(D) Vicarious sexual gratification (IC 35-42-4-5(a) or IC 35-42-4-5(b)).

(E) Sexual conduct in the presence of a minor (IC 35-42-4-5(c)).

(F) Child solicitation (IC 35-42-4-6).

(G) Child seduction (IC 35-42-4-7).

(H) Kidnapping (IC 35-42-3-2), if the victim is less than eighteen (18) years of age and the person is not the child's parent or guardian.

(I) Attempt to commit or conspiracy to commit an offense listed in clauses (A) through

(H).

(J) An offense in another jurisdiction that is substantially similar to an offense described in clauses (A) through (H).

(c) As used in this section, "instant messaging or chat room program" means a software program that requires a person to register or create an account, a username, or a password to become a member or registered user of the program and allows two (2) or more members or authorized users to communicate over the Internet in real time using typed text. The term does not include an electronic mail program or message board program.

(d) As used in this section, "social networking web site" means an Internet web site that:

(1) facilitates the social introduction between two (2) or more persons;

(2) requires a person to register or create an account, a username, or a password to become a member of the web site and to communicate with other members;

(3) allows a member to create a web page or a personal profile; and

(4) provides a member with the opportunity to communicate with another person.

The term does not include an electronic mail program or message board program.

(e) A person described in subsection (b) who knowingly or intentionally uses:

(1) a social networking web site; or

(2) an instant messaging or chat room program;

that the offender knows allows a person who is less than eighteen (18) years of age to access or use the web site or program commits a sex offender Internet offense, a Class A misdemeanor.

However, the offense is a Class D felony if the person has a prior unrelated conviction under this section.

(f) It is a defense to a prosecution under this section that the person:

(1) did not know that the web site or program allowed a person who is less than eighteen (18) years of age to access or use the web site or program; and

(2) upon discovering that the web site or program allows a person who is less than eighteen (18) years of age to access or use the web site or program, immediately ceased further use or access of the web site or program.

As added by P.L.119-2008, SEC.18.

IC 35-42-4-13

Inappropriate communication with a child

Sec. 13. (a) This section does not apply to the following:

(1) A parent, guardian, or custodian of a child.

(2) A person who acts with the permission of a child's parent, guardian, or custodian.

(3) A person to whom a child makes a report of abuse or neglect.

(4) A person to whom a child reports medical symptoms that relate to or may relate to sexual activity.

(b) As used in this section, "sexual activity" means sexual intercourse, deviate sexual conduct, or the fondling or touching of the buttocks, genitals, or female breasts.

(c) A person at least twenty-one (21) years of age who knowingly or intentionally

communicates with an individual whom the person believes to be a child less than fourteen (14) years of age concerning sexual activity with the intent to gratify the sexual desires of the person or the individual commits inappropriate communication with a child, a Class B misdemeanor. However, the offense is a Class A misdemeanor if the person commits the offense by using a computer network (as defined in IC 35-43-2-3(a)).

As added by P.L.119-2008, SEC.19.

IC 35-45-4

Chapter 4. Indecent Acts and Prostitution

IC 35-45-4-0.1

Application of certain amendments to chapter

Sec. 0.1. The enhanced penalty under section 5(b)(2) of this chapter, as added by P.L.7-2005, applies only if at least one (1) of the offenses is committed after June 30, 2005.

As added by P.L.220-2011, SEC.605. Amended by P.L.63-2012, SEC.59.

IC 35-45-4-1

Public indecency

Sec. 1. (a) A person who knowingly or intentionally, in a public place:

(1) engages in sexual intercourse;

(2) engages in deviate sexual conduct;

(3) appears in a state of nudity with the intent to arouse the sexual desires of the person or another person; or

(4) fondles the person's genitals or the genitals of another person;
commits public indecency, a Class A misdemeanor.

(b) A person at least eighteen (18) years of age who knowingly or intentionally, in a public place, appears in a state of nudity with the intent to be seen by a child less than sixteen (16) years of age commits public indecency, a Class A misdemeanor.

(c) However, the offense under subsection (a) or subsection (b) is a Class D felony if the person who commits the offense has a prior unrelated conviction:

(1) under subsection (a) or (b); or

(2) in another jurisdiction, including a military court, that is substantially equivalent to an offense described in subsection (a) or (b).

(d) As used in this section, "nudity" means the showing of the human male or female genitals, pubic area, or buttocks with less than a fully opaque covering, the showing of the female breast with less than a fully opaque covering of any part of the nipple, or the showing of covered male genitals in a discernibly turgid state.

(e) A person who, in a place other than a public place, with the intent to be seen by persons other than invitees and occupants of that place:

- (1) engages in sexual intercourse;
- (2) engages in deviate sexual conduct;
- (3) fondles the person's genitals or the genitals of another person; or
- (4) appears in a state of nudity;

where the person can be seen by persons other than invitees and occupants of that place commits indecent exposure, a Class C misdemeanor.

As added by Acts 1976, P.L.148, SEC.5. Amended by Acts 1977, P.L.340, SEC.76; P.L.189-1984, SEC.1; P.L.215-1997, SEC.1; P.L.121-2000, SEC.1; P.L.123-2003, SEC.2.

IC 35-45-4-1.5

Public nudity

Sec. 1.5. (a) As used in this section, "nudity" has the meaning set forth in section 1(d) of this chapter.

(b) A person who knowingly or intentionally appears in a public place in a state of nudity commits public nudity, a Class C misdemeanor.

(c) A person who knowingly or intentionally appears in a public place in a state of nudity with the intent to be seen by another person commits a Class B misdemeanor. However, the offense is a Class D felony if the person has a prior unrelated conviction under this subsection or under subsection (d).

(d) A person who knowingly or intentionally appears in a state of nudity:

- (1) in or on school grounds;
- (2) in a public park; or

(3) with the intent to arouse the sexual desires of the person or another person, in a department of natural resources owned or managed property; commits a Class A misdemeanor. However, the offense is a Class D felony if the person has a prior unrelated conviction under this subsection or under subsection (c).

As added by P.L.123-2003, SEC.3.

IC 35-45-4-2

Prostitution

Sec. 2. A person who knowingly or intentionally:

- (1) performs, or offers or agrees to perform, sexual intercourse or deviate sexual conduct; or
- (2) fondles, or offers or agrees to fondle, the genitals of another person;

for money or other property commits prostitution, a Class A misdemeanor. However, the offense is a Class D felony if the person has two (2) prior convictions under this section.

As added by Acts 1976, P.L.148, SEC.5. Amended by Acts 1977, P.L.340, SEC.77; Acts 1979, P.L.301, SEC.1; P.L.310-1983, SEC.3.

IC 35-45-4-3

Patronizing a prostitute

Sec. 3. A person who knowingly or intentionally pays, or offers or agrees to pay, money or other property to another person:

- (1) for having engaged in, or on the understanding that the other person will engage in, sexual intercourse or deviate sexual conduct with the person or with any other person; or
 - (2) for having fondled, or on the understanding that the other person will fondle, the genitals of the person or any other person;
- commits patronizing a prostitute, a Class A misdemeanor. However, the offense is a Class D felony if the person has two (2) prior convictions under this section.

As added by Acts 1976, P.L.148, SEC.5. Amended by Acts 1977, P.L.340, SEC.78; Acts 1979, P.L.301, SEC.2; P.L.310-1983, SEC.4.

IC 35-45-4-4

Promoting prostitution

Sec. 4. A person who:

- (1) knowingly or intentionally entices or compels another person to become a prostitute;
- (2) knowingly or intentionally procures, or offers or agrees to procure, a person for another person for the purpose of prostitution;
- (3) having control over the use of a place, knowingly or intentionally permits another person to use the place for prostitution;
- (4) receives money or other property from a prostitute, without lawful consideration, knowing it was earned in whole or in part from prostitution; or
- (5) knowingly or intentionally conducts or directs another person to a place for the purpose of prostitution;

commits promoting prostitution, a Class C felony. However, the offense is a Class B felony under subdivision (1) if the person enticed or compelled is under eighteen (18) years of age.

As added by Acts 1976, P.L.148, SEC.5. Amended by Acts 1977, P.L.340, SEC.79; Acts 1978, P.L.148, SEC.6.

IC 35-45-4-5

Voyeurism; public voyeurism

Sec. 5. (a) The following definitions apply throughout this section:

- (1) "Camera" means a camera, a video camera, a device that captures a digital image, or any other type of video recording device.
- (2) "Peep" means any looking of a clandestine, surreptitious, prying, or secretive nature.
- (3) "Private area" means the naked or undergarment clad genitals, pubic area, or buttocks of an individual.

(b) A person:

- (1) who knowingly or intentionally:
 - (A) peeps; or
 - (B) goes upon the land of another with the intent to peep;

into an occupied dwelling of another person; or
(2) who knowingly or intentionally peeps into an area where an occupant of the area reasonably can be expected to disrobe, including:

- (A) restrooms;
- (B) baths;
- (C) showers; and
- (D) dressing rooms;

without the consent of the other person, commits voyeurism, a Class B misdemeanor.

(c) However, the offense under subsection (b) is a Class D felony if:

- (1) it is knowingly or intentionally committed by means of a camera; or
- (2) the person who commits the offense has a prior unrelated conviction:

- (A) under this section; or
- (B) in another jurisdiction, including a military court, for an offense that is substantially similar to an offense described in this section.

(d) A person who:

- (1) without the consent of the individual; and
- (2) with intent to peep at the private area of an individual;

peeps at the private area of an individual and records an image by means of a camera commits public voyeurism, a Class A misdemeanor.

(e) The offense under subsection (d) is a Class D felony if the person has a prior unrelated conviction under this section or in another jurisdiction, including a military court, for an offense that is substantially similar to an offense described in this section, or if the person:

- (1) publishes the image;
- (2) makes the image available on the Internet; or
- (3) transmits or disseminates the image to another person.

(f) It is a defense to a prosecution under subsection (d) that the individual deliberately exposed the individual's private area.

As added by P.L.311-1983, SEC.31. Amended by P.L.301-1995, SEC.1; P.L.215-1997, SEC.2; P.L.7-2005, SEC.1; P.L.75-2011, SEC.1.

IC 35-46-1-3

Incest

Sec. 3. (a) A person eighteen (18) years of age or older who engages in sexual intercourse or deviate sexual conduct with another person, when the person knows that the other person is related to the person biologically as a parent, child, grandparent, grandchild, sibling, aunt, uncle, niece, or nephew, commits incest, a Class C felony. However, the offense is a Class B felony if the other person is less than sixteen (16) years of age.

(b) It is a defense that the accused person's otherwise incestuous relation with the other person

was based on their marriage, if it was valid where entered into.

As added by Acts 1976, P.L.148, SEC.6. Amended by Acts 1977, P.L.340, SEC.86; P.L.158-1987, SEC.5; P.L.79-1994, SEC.16.

IC 35-46-1-4

Neglect of a dependent; child selling

Sec. 4. (a) A person having the care of a dependent, whether assumed voluntarily or because of a legal obligation, who knowingly or intentionally:

- (1) places the dependent in a situation that endangers the dependent's life or health;
- (2) abandons or cruelly confines the dependent;
- (3) deprives the dependent of necessary support; or
- (4) deprives the dependent of education as required by law;

commits neglect of a dependent, a Class D felony.

(b) However, the offense is:

- (1) a Class C felony if it is committed under subsection (a)(1), (a)(2), or (a)(3) and:

(A) results in bodily injury; or

(B) is:

(i) committed in a location where a person is violating IC 35-48-4-1 (delivery, financing, or manufacture of cocaine, methamphetamine, or a narcotic drug); or

(ii) the result of a violation of IC 35-48-4-1 (delivery, financing, or manufacture of cocaine, methamphetamine, or a narcotic drug);

(2) a Class B felony if it is committed under subsection (a)(1), (a)(2), or (a)(3) and results in serious bodily injury;

(3) a Class A felony if it is committed under subsection (a)(1), (a)(2), or (a)(3) by a person at least eighteen (18) years of age and results in the death of a dependent who is less than fourteen (14) years of age; and

(4) a Class C felony if it is committed under subsection (a)(2) and consists of cruel confinement or abandonment that:

(A) deprives a dependent of necessary food, water, or sanitary facilities;

(B) consists of confinement in an area not intended for human habitation; or

(C) involves the unlawful use of handcuffs, a rope, a cord, tape, or a similar device to physically restrain a dependent.

(c) It is a defense to a prosecution based on an alleged act under this section that:

(1) the accused person left a dependent child who was, at the time the alleged act occurred, not more than thirty (30) days of age with an emergency medical provider who took custody of the child under IC 31-34-2.5 when:

(A) the prosecution is based solely on the alleged act of leaving the child with the emergency medical services provider; and

(B) the alleged act did not result in bodily injury or serious bodily injury to the child; or

(2) the accused person, in the legitimate practice of the accused person's religious belief, provided treatment by spiritual means through prayer, in lieu of medical care, to the accused person's dependent.

(d) Except for property transferred or received:

(1) under a court order made in connection with a proceeding under IC 31-15, IC 31-16, IC 31-17, or IC 31-35 (or IC 31-1-11.5 or IC 31-6-5 before their repeal); or

(2) under section 9(b) of this chapter;

a person who transfers or receives any property in consideration for the termination of the care, custody, or control of a person's dependent child commits child selling, a Class D felony.

As added by Acts 1976, P.L.148, SEC.6. Amended by Acts 1977, P.L.340, SEC.87; Acts 1978, P.L.144, SEC.8; Acts 1980, P.L.208, SEC.1; Acts 1981, P.L.299, SEC.2; Acts 1981, P.L.301, SEC.3; P.L.1-1997, SEC.151; P.L.197-1999, SEC.6; P.L.133-2000, SEC.10; P.L.46-2004, SEC.1; P.L.26-2006, SEC.2; P.L.15-2007, SEC.1; P.L.109-2007, SEC.1; P.L.6-2012, SEC.227.

IC 35-46-1-5

Nonsupport of a dependent child

Sec. 5. (a) A person who knowingly or intentionally fails to provide support to the person's dependent child commits nonsupport of a child, a Class D felony. However, the offense is a Class C felony if the total amount of unpaid support that is due and owing for one (1) or more children is at least fifteen thousand dollars (\$15,000).

(b) It is a defense that the child had abandoned the home of his family without the consent of his parent or on the order of a court, but it is not a defense that the child had abandoned the home of his family if the cause of the child's leaving was the fault of his parent.

(c) It is a defense that the accused person, in the legitimate practice of his religious belief, provided treatment by spiritual means through prayer, in lieu of medical care, to his dependent child.

(d) It is a defense that the accused person was unable to provide support.

As added by Acts 1976, P.L.148, SEC.6. Amended by Acts 1977, P.L.340, SEC.88; Acts 1978, P.L.144, SEC.9; P.L.213-1996, SEC.4; P.L.123-2001, SEC.4.

IC 35-46-1-8

Contributing to the delinquency of a minor

Sec. 8. (a) A person at least eighteen (18) years of age who knowingly or intentionally encourages, aids, induces, or causes a person less than eighteen (18) years of age to commit an act of delinquency (as defined by IC 31-37-1 or IC 31-37-2) commits contributing to delinquency, a Class A misdemeanor.

(b) However, the offense described in subsection (a) is a Class C felony:

(1) if:

(A) the person committing the offense is at least twenty-one (21) years of age and knowingly or intentionally furnishes:

(i) an alcoholic beverage to a person less than eighteen (18) years of age in violation of IC 7.1-5-7-8 when the person committing the offense knew or reasonably should have known that the person furnished the alcoholic beverage was less than eighteen (18) years of age; or

(ii) a controlled substance (as defined in IC 35-48-1-9) or a drug (as defined in IC 9-13-2-49.1) in violation of Indiana law; and

(B) the consumption, ingestion, or use of the alcoholic beverage, controlled substance, or drug is the proximate cause of the death of any person; or

(2) if the person committing the offense knowingly or intentionally encourages, aids, induces, or causes a person less than eighteen (18) years of age to commit an act that would be a felony if committed by an adult under any of the following:

(A) IC 35-48-4-1.

(B) IC 35-48-4-1.1.

(C) IC 35-48-4-2.

- (D) IC 35-48-4-3.
- (E) IC 35-48-4-4.
- (F) IC 35-48-4-4.5.
- (G) IC 35-48-4-4.6.
- (H) IC 35-48-4-5.

As added by Acts 1976, P.L.148, SEC.6. Amended by Acts 1977, P.L.340, SEC.91; Acts 1978, P.L.144, SEC.12; Acts 1979, P.L.276, SEC.58; P.L.216-1996, SEC.24; P.L.1-1997, SEC.152; P.L.46-2004, SEC.2; P.L.2-2005, SEC.126; P.L.1-2006, SEC.533; P.L.151-2006, SEC.18.

Guardianship Laws

IC 29-3-1-6

"Guardian"

Sec. 6. "Guardian" means a person who is a fiduciary and is appointed by a court to be a guardian or conservator responsible as the court may direct for the person or the property of an incapacitated person or a minor. The term includes a temporary guardian, a limited guardian, and a successor guardian but excludes one who is only a guardian ad litem. The terms guardian and conservator are interchangeable.

As added by P.L.169-1988, SEC.1. Amended by P.L.33-1989, SEC.58.

